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CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Parts 2551, 2552, and 2553

RIN 3045-AA63

Senior Corps: Senior Companion Program, Foster Grandparent Program, Retired and Senior Volunteer Program

AGENCY: Corporation for National and Community Service.

ACTION: Final rule.

SUMMARY: On February 14, 2018, the Corporation for National and Community Service (CNCS) proposed changes to existing regulations under the Domestic Volunteer Service Act of 1973, as amended, for the following Senior Corps programs: Foster Grandparent Program (FGP), Senior Companion Program (SCP), and the Retired Senior Volunteer Program (RSVP). The final rule will increase flexibility in program administration while maintaining accountability at the local level, correct grammatical errors, update terminology and streamline requirements for more effective administration of projects in local communities.

DATES: This final rule is effective [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Jill Sears, Senior Corps, at the Corporation for National and Community Service, 250 E Street S.W., Washington, D.C. 20525, phone 303-390-2211. The TDD/TTY number is 800-833-3722.

SUPPLEMENTARY INFORMATION:

I. Background

The National Senior Service Corps, known today as Senior Corps, is comprised of three separate programs; the Senior Companion Program (SCP), the Foster Grandparent Program (FGP) and the Retired and Senior Volunteer Program (RSVP).

The SCP engages low-income older adults to help their more frail peers remain independent in their homes. Senior Companions provide companionship and support to older adults in need of extra assistance to remain at home or in the community for as long as possible, as well as provide respite for caregivers. Senior Companions receive a small stipend enabling them to participate without cost to themselves.

The FGP engages low-income older adults in opportunities to provide one-to-one mentoring, nurturing, and support to children with special or exceptional needs, or who are in academic, social, or financial disadvantage. Foster Grandparents receive a small stipend enabling them to participate without cost to themselves.

RSVP promotes the engagement of older persons as community resources in planning for community improvement and in delivery of volunteer services. RSVP matches the skills of older adults, who are willing to help with local organizations, with the identified needs of the community.

In 1973, Congress enacted the Domestic Volunteer Service Act of 1973 (DVSA), Senior Corps' enabling legislation. Senior Corps continues to retain its purpose, as stated in the DVSA, "to provide opportunities for senior service to meet unmet local, State, and national needs in the areas of education, public safety, emergency and disaster preparedness, relief, and recovery, health and human needs, and the environment."

In 1990, Congress enacted the National and Community Service Act of 1990 (NCSA), the enabling legislation that expanded national and community service initiatives throughout the United States. In 1994, the Corporation for National and Community Service (CNCS) was established pursuant to the National and Community Service Trust Act of 1993; at this time, the operations of all service programs previously administered by the former federal agency, ACTION (the Federal Domestic Volunteer Agency), including Senior Corps, began to be administered by CNCS. Since 1994, Senior Corps continues to be primarily operated and administered under the DVSA.

In 2009, Congress enacted the Edward M. Kennedy Serve America Act of 2009 (Serve America Act), which contained certain amendments to both the DVSA and the NCSA. With regard to Senior Corps, the Serve America Act amendments largely related to initiating competition for the RSVP, decreasing the age limit for volunteers from 60 to 55 and modifying the income eligibility requirements for SCP and FGP volunteers.

II. Discussion of the Final Rule

The final rule includes modifications to current program requirements and technical updates to the three Senior Corps programs: SCP, FGP and RSVP. To modify and update program requirements, CNCS published a notice of proposed rulemaking in the Federal Register on February 14, 2018. The final rule reflects CNCS's consideration of the comments it received. The final rule clarifies several requirements where the proposed language introduced unintended ambiguity. In addition, CNCS made minor technical corrections to the proposed language.

A. Senior Companion Program

For the SCP, changes are applicable to: Subpart A, General, which includes technical updates to definitions and the addition or subtraction of certain definitions; Subpart B, Eligibility and Responsibility of a Sponsor, which includes modifications to specific administrative responsibilities and technical updates; Subpart C, Suspension Termination and Denial of Refunding, which includes technical updates and clarifying language; Subpart D, Senior Companion Eligibility, Status and Cost Reimbursements, which includes: technical updates, such as updating the income exclusion list to specify public benefits and disability benefits, and updating the list of what is considered income for purposes of determining eligibility to serve to include retirement saving plans; and substantive updates, such as removing the requirement for annual physicals and clarification of language to demonstrate which cost reimbursements are optional and which are required; Subpart E, Senior Companion Terms of Service, which includes reducing the minimum hour requirement and establishing annual minimum and maximum hour requirements, and making technical updates; Subpart F, Responsibilities of a Volunteer Station, which includes technical updates; Subpart G, Senior Companion Placement and Assignments, which includes the addition of a new section that consolidates all regulations regarding Senior Companion Leaders, and technical updates; Subpart I, Application and Fiscal Requirements, which includes technical updates, clarification of how applications are made to CNCS, and the removal of regulations for the direct benefit ration, or “80/20 rule”; Subpart J, Non-Stipended Senior Companions, which includes consolidation of regulations and technical updates; Subpart K, Non-

Corporation Funded SCP Projects, which includes technical updates; and Subpart L, Restrictions and Legal Representation, which includes technical updates.

B. Foster Grandparent Program

For the FGP, changes are applicable to: Subpart A, General, which include technical updates to definitions and the addition or modification of certain definitions; Subpart B, Eligibility and Responsibility of a Sponsor, which include modifications to specific administrative responsibilities and technical updates; Subpart C, Suspension Termination and Denial of Refunding, which include technical updates; Subpart D, Foster Grandparent Eligibility, Status and Cost Reimbursements, which includes: technical updates, such as updating the income exclusion list to specify public benefits and disability benefits, updating the list of what is considered income for purposes of determining eligibility to serve to include retirement saving plans; and substantive updates, such as removing the requirement for annual physicals and clarification of language to demonstrate what cost reimbursements are optional and what are required; Subpart E, Foster Grandparent Terms of Service, which include reducing the minimum hour requirement and establishing annual minimum and maximum hour requirements, and technical updates; Subpart F, Responsibilities of a Volunteer Station, which include technical updates; Subpart G, Foster Grandparent Placement and Assignments, which include technical updates; Subpart H, Children Served, which include language updates; Subpart I, Application and Fiscal Requirements, which include technical updates, clarification of how applications are made to CNCS, and the removal of regulations for the direct benefit ration, or “80/20 rule”; Subpart J, Non-Stipended Foster Grandparents,

which include consolidation of regulations and technical updates; Subpart K, Non-Corporation Funded Foster Grandparent Program Projects, which include technical updates; and Subpart L, Restrictions and Legal Representation, which include technical updates.

C. RSVP

For the RSVP, changes are applicable to: Subpart A, General, which include technical updates to definitions and the addition or modification of certain definitions; Subpart B, Eligibility and Responsibility of a Sponsor, which include modifications to specific administrative responsibilities and technical updates; Subpart C, Suspension Termination and Denial of Refunding, which include technical updates; Subpart D, Eligibility, Cost Reimbursements and Volunteer Assignments, which include technical updates and clarification of language to demonstrate what cost reimbursements are optional and what are required; Subpart E, Volunteer Terms of Service, which include technical updates; Subpart F, Responsibilities of a Volunteer Station, which include the removal of a cap on volunteers used to assist with project administration and support as well as technical updates; Subpart G, Application and Fiscal Requirements, which include technical updates, and the removal of regulations that were specific to the enactment of competition for RSVP in 2013; Subpart H, Non-Corporation Funded Projects, which include technical updates; Subpart I, Restrictions and Legal Representation, which include technical updates; and Subpart J, Performance Measurement, which include consolidation of this part as well as clarification of grantee responsibilities.

III. Non-Regulatory Matters

There are no non-regulatory matters to clarify.

IV. Comments and Responses

CNCS published the proposed rule on February 14, 2018 in the Federal Register with a 60-day comment period that ended on April 16, 2018. We received over 130 comments to the proposed rule. Commenters identified themselves, largely, as representatives of CNCS grantees required to comply with the rule, current Senior Corps volunteers impacted by the rule, and prospective volunteers interested in serving through Senior Corps programs. Commenters also consisted of CNCS's Office of Inspector General, and members of the public.

CNCS received overwhelming support for the proposed rule changes. For instance, we received overwhelming support for the elimination of the language requiring that a sponsor expend a sum equal to at least 80% of the total budget on expenses directly benefitting SCP and FGP volunteers, also known as the "Direct Benefit Ratio rule" or the "80/20 rule". Many commenters agreed that the elimination of the Direct Benefit Ratio rule reduces administrative burden for grantees, increases budgetary flexibility, allows grantees to focus on the delivery of high quality program services, and removes a duplicative and onerous requirement.

We also received strong support for reducing the required hours of service in SCP and FGP from "a minimum of 15 hours per week and a maximum of 40 hours per week" to "a minimum of 260 hours annually, or a minimum of 5 hours per week". Many

commenters agreed that the reduction in required hours of service increases program flexibility, program reach to communities in need, and volunteer recruitment.

In addition, we received overwhelming support for the elimination of the annual physical examination requirement for SCP and FGP volunteers. Commenters indicated that the requirement may not properly assess one's ability to serve, and noted that a similar eligibility requirement does not exist in other national service programs. Some commenters said they found the annual paperwork requirement to be burdensome.

We also received overwhelming support for reducing the required annual in-service training hours for SCP and FGP volunteers. Commenters mentioned the diminishing value of repetitive training content from year-to-year. Commenters also mentioned the desire to optimize programmatic resources so that volunteers spend as much time as possible providing direct services to beneficiaries. Commenters agreed that reducing the required annual in-service training hours still achieves our intention to ensure that SCP and FGP volunteers are well-trained and provided valuable adult learning opportunities aimed at personal enrichment and enhancing performance of service assignments.

Furthermore, CNCS received strong support for defining the term "Proprietary Health Care Organization" for SCP, FGP, and RSVP, and for expanding the FGP definition of "Children having exceptional needs" to include "behavioral disorders" and "math and other educational needs." Also, many commenters expressed the view that the requirement that meal times be specified in the goal statement of a volunteer's service activity in order for SCP and FGP volunteers to accrue a stipend during those meal times

is unnecessary, and supported that elimination of the requirement. Finally, CNCS received strong support for the elimination of the current RSVP requirement that states that “no more than 5% of the total number of volunteers budgeted for the project are assigned to it in administrative or support positions.” CNCS agrees that these changes will strengthen grantee program operations, reduce administrative burden, and clarify the meanings of defined terms. The changes will also eliminate certain unnecessary requirements that are redundant because the goals of these requirements are already achieved through other required programmatic and budgetary measures.

The comments and CNCS’s responses are set forth below.

A. Definitions

Comment: We received comments recommending that we modify the current definition of “stipend” for the SCP and FGP programs, at 45 CFR 2551.12(s) and 45 CFR 2552.12(v), to state whether there is a maximum stipend level and/or whether a maximum stipend level may be set by projects locally.

Response:

The current definition of “stipend” for SCP and FGP ensures that stipend amounts are not subject to a specified maximum. In addition, because the amount of the stipend is required to be set nationally, a maximum stipend level may not be set by projects locally. Therefore, CNCS will not modify the current definition of “stipend” found at 45 CFR 2551.12 and 45 CFR 2552.12.

Comment:

CNCS received comments seeking clarification asking the agency to set exact licensure or certification requirements within the requirement for SCP, FGP and RSVP that a “Volunteer station” must be licensed or otherwise certified, when required, by the appropriate state or local government, as currently set forth at 45 CFR 2551.12, 45 CFR 2552.12, and 45 CFR 2553.12.

Response:

CNCS has determined that the requirements as set forth in the proposed regulations provide the correct level of clarity and specificity, as each state or local government may have its own rules defining necessary licensing and certification and these rules may vary by locality. Therefore, CNCS is not modifying language on “volunteer station” requirements for the three programs (45 CFR 2551.12, 45 CFR 2552.12, and 45 CFR 2553.12).

B. Senior Corps Project Staffing Requirements

Comment:

We received a comment recommending that CNCS clarify the requirement that currently exists at 45 CFR 2551.25(c), 45 CFR 2552.25(c), and 45 CFR 2553.25(c), that addresses whether an exception may be made to the requirement that a SCP, FGP or RSVP project director work full-time.

Response:

The current language in the regulations provides sufficient clarity regarding when an exception may be made to the requirement that a project director work in that capacity on a full-time basis. The language in all three regulations explicitly states that “a sponsor may negotiate the employment of a part-time project director with CNCS when the sponsor can demonstrate that such an arrangement will not adversely affect the size, scope, or quality of project operations.” Therefore further clarity is not required. (45 CFR 2551.25(c), 45 CFR 2552.25(c), and 45 CFR 2553.25(c)).

Comment:

We received several comments that opposed CNCS’s proposal to remove language that currently exists at 45 CFR 2551.25 (e), 45 CFR 2552.25 (e), and 45 CFR 2553.25 (e) that requires a sponsoring organization to compensate project staff at a level that is comparable to other similar staff positions in the organization and/or in the project service area. Commenters stated that the removal of this rule would interfere with the ability of many project directors to negotiate an equitable salary, when needed.

Response:

CNCS has considered the comments received and in response made revisions to the proposed changes to the SCP, FGP and RSVP regulations, so that sponsors have the discretion to negotiate with their project staff regarding appropriate compensation levels.

The revised language states that a sponsoring organization shall “Compensate project staff at a level that is comparable to similar staff positions in the sponsor organization and/or project service area, as is practicable” (45 CFR 2551.25, 45 CFR 2552.25(e), 45 CFR 2553.25(e)).

C. Sponsor Administrative Requirements

Comment:

We received comments in support of the elimination of the requirement for SCP and FGP projects to coordinate with local RSVP projects when SCP and FGP projects enroll non-stipended volunteers, which is currently required at 45 CFR 2551.101 and 45 CFR 2552.101. Commenters suggested that the requirement for SCP and FGP projects to coordinate with nearby RSVP projects when enrolling over-income volunteers increased administrative burden for all three projects. In addition, the requirement presumes that a prospective non-stipended volunteer is willing to transition to a different project that may not offer a similar volunteer opportunity.

Response:

CNCS agrees with these comments. Not only may local RSVP projects offer volunteer opportunities that are dissimilar to SCP and FGP opportunities, potential non-stipended volunteers may prefer to serve through the SCP or FGP project that recruited them. Accordingly, SCP and FGP projects will no longer be required to coordinate with

local RSVP projects when enrolling non-stipended SCP and FGP volunteers. Therefore, as set forth in the proposed rule, this requirement is eliminated in the final rule.

Comment:

We received comments supporting the elimination of two recommendations that are currently set forth at 45 CFR 2551.102(e), CFR 2551.102(f), CFR 2552.102(e), and CFR 2552.102(f). These regulatory provisions recommended that: 1) non-stipended volunteers serve at separate volunteer stations from stipended SCP and FGP volunteers, and 2) non-stipended volunteers serve an average number of hours per week that differed from the requirement for stipended volunteers.

Response:

CNCS has determined that the elimination of certain service recommendations pertaining to non-stipended volunteers is warranted in order to make requirements for both stipended and non-stipended SCP and FGP volunteers consistent, equitable, and conducive to an effective service environment. In addition, the elimination of these recommendations ensures that service is carried out in a unified manner that promotes team building and strengthens impacts on communities. Moreover, we have determined that maintaining a separate and additional set of criteria related to non-stipended volunteers increases the administrative burden that is needed to support both stipended and non-stipended volunteers. Thus, as set forth in the proposed rule, we are eliminating the language which recommended that non-stipended volunteers serve at separate

volunteer stations, and which recommended that non-stipended volunteers maintain average weekly service hours that differ from stipended volunteers.

Comment:

We received comments in support of clarifying the regulation that currently exists at 45 CFR 2553.61 that specifies that a sponsor may also serve as a volunteer station. Commenters sought clarification that both the RSVP sponsor and the RSVP project itself may serve as a volunteer station as some commenters found the current language too vague.

Response:

CNCS has determined that expressly stating that RSVP sponsors and RSVP projects themselves may serve as volunteer stations helps more clearly articulate the rule. Accordingly, the final rule provides this clarification. (45 CFR 2553.61)

Comment:

We received comments related to the current requirement, at 45 CFR 2553.71(2)(e), that addresses RSVP grant cycles. Some commenters asked for clarification as to whether grant awards may be made for one three-year grant cycle or two three-year grant cycles. Other commenters requested that CNCS explicitly state that sponsoring organizations may be permitted to retain grant awards indefinitely, assuming satisfactory performance.

Response:

CNCS finds the language in the current regulation to be sufficiently clear and therefore no further change to the language is needed. The regulation states that “CNCS awards an RSVP grant for a specified period that is 3 years in duration with an option for a grant renewal of 3 years, if the grantee's performance and compliance with grant terms and conditions are satisfactory.” This regulation is pursuant to the statutory requirements related to the duration of RSVP grants and optional grant renewals. CNCS does not have the legal authority to indefinitely retain a sponsoring organization. Rather, we must carry out statutory requirements related to RSVP competition.

Comment:

We received a variety of comments related to RSVP performance measure requirements as currently set forth at 45 CFR part 2553, subpart J. Some commenters took issue with the requirement, as currently set forth specifically at 45 CFR 2553.108, that if a sponsor fails to meet a target performance measure established in the approved grant application, CNCS may take one or more of the following actions: (a) reduce the amount, suspend, or deny refunding of the grant or (b) terminate the grant. One commenter suggested that CNCS introduce language that supports training and technical assistance ahead of the actions listed in the proposed rule. Another commenter sought clarification as to who develops performance measures. Other comments sought

clarification on the elimination of definitions related to performance measures that are currently set forth at 45 CFR 2553.12.

Response:

CNCS appreciates the range of comments related to performance measure requirements. While we understand that the comments are indicative of an ongoing desire from practitioners for robust support materials related to measuring the impact of Senior Corps projects across the country, compliance with performance measure requirements is mandated by statute. Where possible, CNCS will continue to provide information on performance measures through guidance and training rather than through regulation. Support in understanding and implementing national performance measures is best delivered through guidance and training as these tools allow sponsors more flexibility with project design and implementation. Further, by setting performance measure requirements in regulation, CNCS and sponsors are less able to keep pace with evolving industry standards. In addition, applicants have the flexibility to elect specific measures from a list of national measures provided by CNCS with each grant opportunity. Moreover, including additional requirements into regulation may limit sponsor choice without providing a tangible benefit. Thus, CNCS is publishing the final rule related to 45 CFR 2553.12 and 45 CFR part 2553, subpart J, as proposed (45 CFR 2553.101 – 45 CFR 2553.109).

D. Volunteer Service Requirements

Comment:

Commenters overwhelmingly support the reduction of required annual in-service training hours that currently exist for SCP and FGP volunteers at 45 CFR 2551.23(f) and 45 CFR 2552.23(f). Some commenters mentioned the diminishing value of repetitive training content from year-to-year and thereby support the overall reduction in required in-service training hours. Others mentioned preferring to spend time in direct service with beneficiaries. One commenter stated that fewer hours of training were required to maintain a previous professional training certification for similar services. In addition, we received a few comments requesting elimination of the training requirement altogether.

Response:

CNCS maintains that an investment in ongoing training is important to provide SCP and FGP volunteers with valuable adult learning opportunities aimed at enhancing performance of service assignments and providing volunteers with personal enrichment. The proposed change does not alter the requirement that volunteers receive at least twenty (20) hours of pre-service orientation when they begin service. However, the proposed change clarifies ongoing in-service training language and reduces the minimum requirement from forty (40) hours to twenty-four (24) hours of in-service training annually. By reducing the minimum requirement for annual, ongoing in-service training, projects are able to allow volunteers to spend more time delivering services to beneficiaries each year. CNCS disagrees with the comments proposing the complete elimination of the training requirement as ongoing training ensures that volunteers

continue to deliver high-quality service and that volunteers have opportunities for personal enrichment. Consequently, CNCS includes the proposed language reducing the minimum number of in-service training hours for SCP and FGP volunteers in the final rule. (45 CFR 2551.23(f) and 45 CFR 2552.23(f)).

E. Volunteer Eligibility Requirements

Comment:

We received many comments strongly in favor of removing the annual physical examination requirement for SCP and FGP volunteers that currently exists at 45 CFR 2551.41(a)(2), 45 CFR 2551.46 (d), 45 CFR 2552.41(a)(2), and 45 CFR 2552.46(d). Some commenters indicated that they found the requirement may not properly assess one's ability to serve. They noted that a similar eligibility requirement does not exist in other national service programs. Some commenters said they found the annual paperwork requirement to be burdensome. Many commenters supported the elimination of the annual physical examination requirement while also expressing a desire to retain physical examinations an option, and therefore as an allowable expense because some sponsoring organizations and/or volunteer stations like the idea of providing the annual physical examination as an option available for volunteers. Finally, some commenters disagree with the removal of the physical examination and voiced preferences ranging from a one-time enrollment requirement to a mandatory requirement every three years.

Response:

CNCS agrees that annual physical examinations, while potentially valuable to certain volunteers and stations, may not be determinative of one's ability to serve. Furthermore, the annual paperwork requirement may be burdensome for both projects and volunteers. Accordingly, we are eliminating this requirement in the final rule. However, both CNCS and sponsors recognize the value of offering physical examinations to volunteers who may not otherwise have the resources or means to obtain them. Sponsors who will be offering physical examinations to volunteers will likely support the retention of incumbent, experienced volunteers, which will in turn support and sustain project operations. Therefore, this direct benefit shall be retained as an allowable grant expense. As such, CNCS is adding "Physical examination" to the articulated cost reimbursements in the final rule (45 CFR 2551.46(f) and 45 CFR 2552.46(f)).

Comment:

CNCS proposed clarifying in the SCP and FGP regulations currently set forth in 45 CFR 2551.44(b) and 45 CFR 2552.44(b) that Supplemental Nutrition Assistance Program (SNAP) benefits, public assistance, child support, and disability payments, are not considered income for eligibility verification purposes. CNCS also received a comment suggesting that the nonexhaustive listings of funds that are considered income be updated to reflect CNCS's longstanding position that retirement savings plans, including 401(k) plans, are considered income for eligibility verification purposes.

Response:

CNCS has determined that articulating certain forms of public assistance that are not to be counted toward an SCP or FGP volunteer's eligibility is helpful. We have also determined that explicitly articulating certain forms of income that are to be counted toward an SCP or FGP volunteer's eligibility is likewise helpful. Accordingly, we are clarifying in the final rule that SNAP benefits, public assistance, child support, and disability payments shall not be used to determine income eligibility. (45 CFR 2551.44(b)(3),(b)(4) and 45 CFR 2552.44(b)(3), (b)(4)). While it has always been CNCS's position that these forms of public benefits and assistance are not considered income for volunteer eligibility purposes, we note that those forms of public benefits and assistance are not specifically denoted in the current SCP and FGP regulations as such. Accordingly, in the final rule, we are updating the non-exhaustive listings of what funds are not considered income for eligibility verification purposes to include SNAP benefits, public assistance, child support, and disability payments.

In addition, non-exhaustive listings of what funds are considered income for eligibility purposes are set forth in the current SCP and FGP regulations. It was suggested that the nonexhaustive listings of funds that are considered income reflect CNCS's longstanding position that retirement savings plans, including 401(k) plans, are considered income for volunteer eligibility purposes. Accordingly, for both SCP and FGP regulations, we are updating the non-exhaustive listings of what funds are considered income to reflect retirement savings plans.

F. Volunteer Stipend for Senior Companion Leaders

Comment:

We received a comment that sought clarification as to whether a Senior Companion leader may be paid a stipend.

Response:

Yes, a Senior Companion leader may be paid a stipend. A Senior Companion leader may also be provided a monetary incentive, through recognition, for his or her service as a Senior Companion leader. An individual's cumulative service as a Senior Companion and a Senior Companion leader may not exceed 40 hours per week.

CNCS is relocating the Senior Companion leader regulatory provision to a new section at 45 CFR 2551.73(b).

G. Comments Related to the Direct Benefit Ratio Rule and Minimum Service Hours

Comment:

The agency received overwhelming support for the elimination of the language requiring that a sponsor expend a sum equal to at least 80% of the total budget on expenses directly benefitting SCP and FGP volunteers, also known as the “Direct Benefit Ratio rule” or the “80/20 rule” that currently exist at 45 CFR 2551.92 (e) and 45 CFR 2552.92 (e). For example, several commenters stated that the elimination of the Direct Benefit Ratio rule would reduce administrative burden for grantees and allow them to focus on the delivery of high quality program services.

Response:

CNCS agrees that eliminating the Direct Benefit Ratio rule will reduce administrative burden for grantees and allow them to focus on the delivery of high quality services for their SCP and FGP projects. Also, in CNCS's view, elimination of the rule will lead to more local control over project design and to increased flexibility in budget expenditures.

The Direct Benefit Ratio rule was intended to control spending on administrative costs. However, we have found that the rule no longer achieves this goal. Rather, the Direct Benefit Ratio rule constrains local control of project design and innovation, and adds a layer of complexity to grant awards that is unnecessary and unduly burdensome.

Moreover, the Direct Benefit Ratio rule is duplicative because CNCS regulations and policy, as well as other applicable federal regulations set forth in the "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" (OMB Uniform Guidance), as established by the Office of Management and Budget, already restrict spending on administrative costs. The applicable regulations and policy are as follows:

- 1) CNCS requires that grantees match at least 10% of the total project cost for SCP and FGP projects. (45 CFR 2551.92, 45 CFR 2552.92)

2) Sponsors must request prior CNCS approval if seeking to reduce the funding that is allocated to volunteer stipends. (45 CFR 2551.93, 45 CFR 2552.93)

3) SCP and FGP grants are federal awards and continue to be governed by the OMB Uniform Guidance, as established by the Office of Management and Budget. The OMB Uniform Guidance aims to reduce administrative burden on award recipients while guarding against the risk of waste and misuse of federal funding. (2 CFR Part 200 and 2 CFR Part 2205)

4) CNCS has established a policy that defines a maximum cost per volunteer service year (VSY). A VSY is a unit of measure that is equal to 1,044 hours of annual volunteer service. At a set volunteer stipend rate of \$2.65 per hour, each VSY is equivalent to \$2,767 per year. This means that grantees must annually budget \$2,767 for each VSY they agree to produce. In turn, they have the flexibility to budget the remaining amount, up to the maximum cost per VSY, for a combination of administrative costs and other direct benefits for volunteers, like meals, transportation, insurance, etc. This rate is communicated to applicants or grantees during the application or renewal process rather than in regulation. As such, CNCS may adjust the rate in accordance with inflation over time. In addition, the maximum cost per VSY is linked to service activity in outcome-based assignments. This effectively establishes a minimum amount of expected service delivery in relation to the federal

award; establishing such a minimum amount serves as a strong internal control to ensure that quality services at satisfactory and higher levels are delivered to the community.

Finally, the administrative burden necessary to comply with this Direct Benefit Ratio rule is unduly onerous. Accordingly, this requirement is eliminated in the final rule.

Comment:

We received numerous comments strongly supporting the reduction of required hours of service in SCP and FGP from “a minimum of 15 hours per week and a maximum of 40 hours per week” that currently exist at 45 CFR 2551.51 and 45 CFR 2552.51 to “a minimum of 260 hours annually, or a minimum of 5 hours per week”. We received strong support from project staff, volunteers, and prospective volunteers, many of whom articulated challenges associated with the current requirement. Challenges articulated include: 1) prospective volunteers’ not wanting to commit to serve at least 15 hours per week which, in turn, adversely impacts project recruitment; and 2) projects’ being impeded from offering volunteer services for certain established programs (e.g., after-school programs) because the schedules of those programs warrant far fewer hours per week for such services. In addition, some commenters requested that we set a minimum number of hours at a different level, e.g. a minimum of 10 hours per week, while others recommended the complete elimination of the requirement.

We also received comments related to the proposal to remove language allowing projects to set local policies regarding hours of service. Additionally, we received two comments questioning the proposed reduction in minimum hours of service; two

commenters noted the possibility that reducing hours of service could lead to the enrollment of additional volunteers, which could then lead to a potential increase in costs related to supporting those additional volunteers. These commenters also expressed concern that the increase in costs associated with supporting additional volunteers could lead to a decrease in resource availability, which could then possibly lead to a decrease in the support of beneficiaries.

Finally, we received a comment requesting that CNCS conduct research to determine the extent to which the existing requirement that volunteers serve a minimum of 15 hours per week prevents grantees from filling volunteer slots or retaining volunteers.

Response:

CNCS notes that the majority of commenters support this proposed change and recognize the value of reducing the required minimum hours of service per week for volunteers. The agency further notes that the challenges associated with the existing minimum number of hours of service required of each volunteer can adversely impact project recruitment. For example, CNCS has received feedback from a range of stakeholders that prospective volunteers are deterred from service because the weekly commitment is viewed as difficult to meet, given other personal interests or obligations. These challenges may also restrict a sponsor's ability to offer a diversity of volunteer services, which consequently impede sponsors from offering a wider range of volunteer opportunities. CNCS anticipates that reducing the minimum requirement to five hours

weekly, or 260 hours annually, will help alleviate these challenges and is therefore adhering to the proposed change.

We also recognize that our proposal to eliminate the language that allows projects to set local policies regarding hours of service may raise questions as to whether projects will still be permitted to set such local policies. Projects will still be able to set local policies that define hours of service. Indeed, because sponsors are able to set local weekly hours of service policies, they may elect to establish the minimum weekly hours of service expected at any level in between the 5 hour weekly minimum and the 40 hour weekly maximum. Therefore, CNCS will not eliminate the proposed language.

Finally, we address the comment suggesting that CNCS conduct research to determine the extent to which the existing requirement of a minimum of 15 hours of service per week prevents grantees from filling volunteer slots or retaining volunteers. CNCS has determined that more research is not necessary prior to issuing this regulatory change.

Based on CNCS's observation of the adverse impact on stakeholders, which includes direct feedback, and research commissioned by CNCS, reducing the 15 hour per week minimum service requirement is appropriate and warranted. The 15 hour per week minimum serves as a barrier to recruitment, retention, project growth, and/or project innovation. Research commissioned by CNCS also indicates that prospective volunteers are deterred from service because the weekly commitment is viewed as difficult to meet, given other personal interests or obligations. Additionally, CNCS recognizes that reducing the minimum number of required weekly service hours for prospective and

current volunteers is likely to result in strengthened increased recruitment of new volunteers and retention of existing volunteers. Therefore, CNCS has determined that this proposed change is appropriate and, accordingly incorporates it in the final rule. (45 CFR 2551.51 and 45 CFR 2552.51).

Comment:

We received one comment in which the commenter recommended that CNCS consider the cost effectiveness of the proposed amendment reducing the minimum number of volunteer service hours per week from 15 to 5. The commenter suggests that, by decreasing the number of hours each individual serves, the service delivered directly to beneficiaries will be minimized because additional funding will be spent in support of mobilizing and retaining additional volunteers in service. This commenter also recommended that CNCS consider the cost effectiveness of eliminating the Direct Benefit Ratio rule (the “80/20 rule”), which requires that a sum equal to at least 80% of the federal award be expended on benefits provided directly to SCP and FGP volunteers.

Response:

As stated in the responses to the comments above, CNCS has received strong positive feedback from many commenters that express support for the proposed reduction to the minimum weekly service hour requirement and the elimination of the Direct Benefit Ratio rule. CNCS has considered the cost effectiveness of

reducing the minimum number of volunteer service hours and found that the benefits of making this change far outweigh the potential costs. We considered whether reducing the weekly service hour requirement would likely improve the quality, increase the range, and expand the reach, of services to beneficiaries, for the cost incurred. Reducing the minimum number of volunteer service hours per week positions CNCS to achieve such increased value and better results. This change also removes barriers to service, which will, in turn, attract greater numbers of volunteers and support a broader range of volunteers in service.

In addition, this rule states that projects may set local policies within these parameters. Therefore, individual sponsors are given the discretion to assess the local needs of both prospective volunteers and the volunteer stations at which they serve. With the reduction in minimum weekly service hours, sponsors will be able to offer service opportunities that are attractive to both a larger and more diverse group of volunteers and a larger and more diverse group of service sites and volunteer stations. Sponsors report that, for some prospective volunteer stations, CNCS resources are inaccessible because these sites cannot support the 15-hour per week minimum service requirement of volunteers. By allowing for more individualized volunteer service opportunities, sponsors will have a broader reach into the community. Sponsors will be able to support new community partners and consequently reach a larger and more diverse group of beneficiaries.

Furthermore, the increased flexibility in service schedules should be considered in conjunction with the reduction in required in-service training hours as

well as other program rules. As discussed above, the required amount of in-service training is being reduced from 40 hours annually to 24 hours annually. This change will create efficiencies because the likelihood of repetitive content appearing in year-to-year in-service trainings is diminished. The change will also optimize programmatic resources so that volunteers spend as much time as possible providing direct services to beneficiaries.

Moreover, the reduction in the required amount of annual in-service training would allow sponsors to spend less of their stipend funding in support of mandatory volunteer training. In addition, sponsors continue to be required to request prior CNCS approval if seeking to reduce the funding that is allocated to volunteer stipends. This is significant for two reasons: 1) a sponsor may expend less stipend funding on time spent in training, and 2) a sponsor may not shift stipend funding to other expenses without express prior CNCS approval. Therefore, a sponsor may shift stipend funding from training and must expend that funding on time spent in direct service unless granted permission from CNCS to do otherwise.

In other words, the reduction in required minimum hours of in-service training could result in cost savings for a sponsor, which would then be directed into additional hours of service spent with beneficiaries of service.

CNCS has also considered the impact of eliminating the Direct Benefit Ratio rule (the “80/20 rule”), which requires that a sum equal to at least 80% of the federal award be expended on benefits provided directly to SCP and FGP volunteers. CNCS

has determined that the Direct Benefit Ratio rule, which must operate in conjunction with the match requirement, and the restriction on re-budgeting stipend funding, not only constrains local control of project design and innovation, but also add a layer of complexity to these grant awards that is unnecessary and unduly burdensome. CNCS also finds the Direct Benefit Ratio rule to be duplicative because CNCS regulations and policy, as well as other applicable federal regulations, already restrict spending on administrative costs.

The applicable regulations and policies used to closely monitor and control administrative costs include:

1) CNCS requires that grantees match at least 10% of the total project cost for SCP and FGP projects. (45 CFR 2551.92, 45 CFR 2552.92)

2) Sponsors must request prior CNCS approval if seeking to reduce the funding that is allocated to volunteer stipends. (45 CFR 2551.93, 45 CFR 2552.93)

3) SCP and FGP grants are federal awards and continue to be governed by the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards as established by the Office of Management and Budget. The “Uniform Guidance” aims to reduce administrative burden on award recipients while guarding against the risk of waste and misuse of federal funding. (2 CFR Part 200 and 2 CFR Part 2205)

4) CNCS has established a policy that defines a maximum cost per volunteer service year (VSY). A VSY is a unit of measure that is equal to 1,044 hours of annual volunteer service. At a set volunteer stipend rate of \$2.65 per hour, each VSY is equivalent to \$2,767 per year. This means that grantees must annually budget \$2,767 for each VSY they agree to produce. In turn, they have the flexibility to budget the remaining amount, up to the maximum cost per VSY, for a combination of administrative costs and other direct benefits for volunteers, like meals, transportation, insurance, etc. This rate is communicated to applicants or grantees during the application or renewal process rather than in regulation. As such, CNCS may adjust the rate in accordance with inflation over time. In addition, the maximum cost per VSY is linked to service activity in outcome-based assignments. This effectively establishes a minimum amount of expected service delivery in relation to the federal award; establishing such a minimum amount serves as a strong internal control to ensure that quality services at satisfactory and higher levels are delivered to the community.

Moreover, eliminating the Direct Benefit Ratio rule will not adversely impact the number of volunteers or the level of services performed. Rather, establishing a maximum cost per VSY, in combination with eliminating the Direct Benefit Ratio rule, allow grantees to both assert control over local budgetary needs and deliver an expected amount of service to the community.

To be sure, the elimination of the rule allows grantees, if they choose, to incur additional administrative costs. However, even in those cases where grantees elect to spend more in administrative costs, eliminating the Direct Benefit Ratio rule will reduce burden, improve programmatic flexibility, and ultimately, allow more effective service. Notwithstanding possible increases in administrative costs for certain grantees, we have determined that the value still outweighs such costs.

Comment:

CNCS received one comment that recommended the initiation of a pilot program to determine how the proposed changes will impact direct service to the community and the total administrative costs associated with the SCP and FGP programs, specifically related to the reduction in required minimum weekly hours of service and the elimination of the Direct Benefit Ratio rule.

Response:

CNCS has determined that a pilot program is unnecessary because we have established controls in policy that bind grant expenditures, and we evaluate and monitor the impact of direct service to the communities where SCP and FGP programs operate on an ongoing basis. In addition, SCP and FGP grant awards are governed by the OMB Uniform Guidance (2 CFR Part 200, 2 CFR Part 2205). These rules properly regulate and control administrative costs associated with federal grant

awards and provide sufficient budgetary controls over the administrative costs incurred when implementing SCP and FGP awards.

Moreover, designing, implementing and evaluating the results of a pilot program are likely to take several years' time and produce little added benefit. CNCS has determined that it has sufficient information to conclude that the likely impact of the reduction in minimum hours of weekly required service and the elimination of the Direct Benefit Ratio rule will be highly favorable for sponsors and the communities they serve, as volunteer service will increase and administrative burden will decrease.

To that end, CNCS has received a high degree of positive feedback regarding the impact of these proposed regulatory changes, in the form of many favorable comments from parties of interest – i.e., grantees and other stakeholders. Furthermore, CNCS has conducted research that indicates that the 15-hour per week minimum serves as a barrier to recruitment, retention, and/or project innovation. This research indicates that prospective volunteers are deterred from service because the weekly commitment is viewed as difficult to meet given other personal obligations and interests. This research also shows that the Direct Benefit Ratio rule impedes project growth and innovation because it hinders budget flexibility that would allow the projects to grow and evolve to meet changing community needs. For example, while projects have a reasonable desire to leverage more funding to deliver expanded and high quality programming, some sponsors report that they have elected to forego

accepting additional non-federal funding to avoid the administrative burden associated with the Direct Benefit Ratio rule.

Therefore, CNCS has determined that a pilot program is not warranted and does not plan to conduct one.

Comment:

CNCS received a comment that asked us to consider and test alternative approaches to the proposed changes, specifically to reducing the minimum number of service hours per week and eliminating the Direct Benefit Ratio rule. The commenter suggested permitting calendar-based variation in minimum service hour requirements to allow volunteer commitments to fluctuate with the school year. The commenter also suggested that CNCS consider modifying rather than eliminating the Direct Benefit Ratio rule.

Response:

CNCS has considered alternative approaches to achieving the same objectives of increasing volunteer service opportunities by reducing the minimum number of service hours per week from 15 to 5, and to decreasing administrative burden by eliminating the Direct Benefit Ratio rule. We have determined that reducing the minimum number of service hours per week is the best approach.

Indeed, CNCS has guidance in the SCP and FGP Handbooks that provides technical support to sponsors so that they can accommodate calendar-based

variations of service opportunities, particularly when considering a typical school year, as this is a common challenge experienced by FGP projects.

Based on CNCS's observation of the adverse impact on stakeholders, which includes direct feedback, and research commissioned by CNCS, reducing the 15 hour per week minimum service requirement and eliminating the Direct Benefit Ratio rule is appropriate and warranted. CNCS determined that the 15-hour per week minimum service requirement is a barrier to recruitment, retention, and/or project innovation. In addition, CNCS determined that the Direct Benefit Ratio rule impedes project growth and innovation because it hinders budget flexibility that would allow projects to grow and evolve to meet changing community needs.

Indeed, CNCS established and implemented a more effective approach to achieve both objectives of increasing volunteer service opportunities and decreasing administrative burden prior to publishing the proposed rules. As stated above, by establishing a maximum cost per volunteer service year (VSY) for time spent in outcome-based assignments, a sponsor is able to optimally and more flexibly budget non-stipend funding. This consequently makes the Direct Benefit Ratio rule unnecessary, and, by eliminating the rule, we relieve sponsors of the undue administrative burden associated with it.

By setting a maximum cost per VSY, sponsors are also given the flexibility, if they choose, to mobilize additional volunteers into service. A VSY, again, represents a set number of service hours. It is not tied to a specific, individual volunteer, but

rather is used as a tool to budget service hours and stipend funding. By reducing the number of weekly service hours that each individual volunteer is required to serve, sponsors are able to bring new volunteers into service and offer additional and diverse volunteer opportunities. Sponsors are also able to engage additional and diverse volunteer stations, as some prospective volunteer stations have reported that CNCS resources are inaccessible to them because their sites cannot support the 15-hour per week minimum service requirement for volunteers.

In addition, CNCS has linked the maximum cost per VSY to service activities in outcome-based assignments. In other words, sponsors must assign volunteers to service assignments that are aimed at achieving national performance measure outcomes. By setting a maximum cost per VSY, CNCS has effectively established a minimum amount of expected service delivery in relation to the federal award. That is, by tying the maximum cost per VSY to outcome-based assignments, CNCS protects its investment in high quality service that directly impacts communities.

Therefore, for the reasons set forth above, further consideration of alternatives is unnecessary.

V. Effective Dates and Implementation

The new regulations are in effect [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION] and apply to all awards funded after the effective date of the new regulations, and to all grant activity funded in FY18.

VI. Regulatory Procedures

Executive Order 12866

CNCS has determined that the rule is not an “economically significant” rule within the meaning of E.O. 12866 because it is not likely to result in: (1) an annual effect on the economy of \$100 million or more, or an adverse and material effect on a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal government or communities; (2) the creation of a serious inconsistency or interference with an action taken or planned by another agency; (3) a material alteration in the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) the raising of novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in E.O. 12866.

Regulatory Flexibility Act

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 605 (b)), CNCS certifies that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities. This regulatory action will not result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, CNCS has not performed the initial regulatory flexibility analysis that is required under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) for major rules that are expected to

have such results.

Unfunded Mandates

For purposes of Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, as well as Executive Order 12875, this regulatory action does not contain any Federal mandate that may result in increased expenditures in either Federal, State, local, or tribal governments in the aggregate, or impose an annual burden exceeding \$100 million on the private sector.

Paperwork Reduction Act

This rule addresses the requirement that entities that wish to apply to be Senior Corps SCP, FGP, or RSVP sponsors complete an application. Consistent with this requirement are two documents: the FGP/SCP Grant Application and the RSVP Grant Application (<http://www.nationalservice.gov/documents/senior-corps/2015/2016-fgpscp-grant-application-instructions>; <http://www.nationalservice.gov/documents/senior-corps/2015/rsvp-grant-application-instructions>).

This requirement constitutes one set of information under the Paperwork Reduction Act (PRA), 44 U.S.C. 507 et seq. OMB, in accordance with the Paperwork Reduction Act, has previously approved these information collections for use. The OMB Control Number for both the FGP/SCP Grant Application and the RSVP Grant Application is 3045-0035.

Under the PRA, an agency may not conduct or sponsor a collection of information unless the collections of information displays valid control numbers. This rule's collections of information are contained in 45 CFR part 2551, subparts B, D, F, G, and I,

part 2552, subpart B, D, F, G, and I, and part 2553, subparts B, D, F, G, and I for the FGP/SCP Grant Application and the RSVP Grant Application, respectively.

This information is necessary to ensure that only eligible and qualified entities serve as Senior Corps sponsors. This information is also necessary to ensure that only eligible and suitable individuals are approved by the Senior Corps SCP, FGP, or RSVP programs to serve as volunteers in the SCP, FGP, or RSVP programs.

The likely respondents to these collections of information are entities interested in or seeking to become Senior Corps SCP, FGP or RSVP sponsors and current sponsors.

Executive Order 13132, Federalism

Executive Order 13132, Federalism, prohibits an agency from publishing any rule that has Federalism implications if the rule imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. The rule does not have any Federalism implications, as described above.

List of Subjects

45 CFR Part 2551

Aged, Grant programs—social programs, Volunteers.

45 CFR Part 2552

Aged, Grant programs—social programs, Volunteers.

45 CFR Part 2553

Aged, Grant programs—social programs, Volunteers.

For the reasons discussed in the preamble, under the authority of 42 U.S.C. 12651c(c), the Corporation for National and Community Service amends chapter XXV, title 45 of the Code of Federal Regulations as follows:

PART 2551 – SENIOR COMPANION PROGRAM

1. The authority citation for part 2551 continues to read as follows:

Authority: 42 U.S.C. 4950 *et seq.*; 42 U.S.C. 12651b-12651d; E.O. 13331, 69 FR 9911.

2. Amend §2551.12 as follows:

- a. Remove paragraphs (f), (l), (m), (o), (t), and (u).
- b. Remove all alphabetical paragraph designations.
- c. Revise the definitions of “Adequate staffing level” and “Chief Executive Officer”.
- d. Move the definition of “Adequate staffing level” before the definition of “Adult with special needs”.
- e. Add the definition of “CNCS” in alphabetical order.
- f. Revise the definitions of “Cost reimbursements”, “Letter of Agreement”, and “National Senior Service Corps (NSSC)”.
- g. Add the definitions of “Non-CNCS support (excess)”, “Non-CNCS support (match)”, and “Performance measures” in alphabetical order.
- h. Revise the definition of “Project”.
- i. Add the definition of “Proprietary Health Care Organization” in alphabetical order.

j. Revise the definitions of “Service area”, “Sponsor”, and “Stipend”.

k. Add the definition of “United States and Territories” in alphabetical order.

l. Revise the definitions of “Volunteer assignment plan” and “Volunteer station”.

The revisions and additions read as follows:

§ 2551.12 Definitions.

* * * * *

Adequate staffing level. The number of project staff or full time equivalent needed by a sponsor to manage the National Senior Service Corps (NSSC) project operations considering such factors as: number of budgeted Volunteer Service Years (VSYs), number of volunteer stations, and the size of the service area.

* * * * *

Chief Executive Officer. The Chief Executive Officer of CNCS appointed under the National and Community Service Act of 1990, as amended, (NCSA), 42 U.S.C. 12501 *et seq.*

CNCS. The Corporation for National and Community Service established under the NCSA, as amended, 42 U.S.C. 12501 *et seq.*

Cost reimbursements. Reimbursements budgeted as Volunteer Expenses and provided to volunteers, including stipends to cover incidental costs, transportation, meals, recognition, supplemental accident, personal liability and excess automobile liability insurance and other expenses as negotiated in the Memorandum of Understanding.

* * * * *

Letter of Agreement. A written agreement between a volunteer station or sponsor,

and person(s) served or the person legally responsible for that person. It authorizes the assignment of an SCP volunteer in the home of a client, defines SCP volunteer activities, and specifies supervision arrangements.

* * * * *

National Senior Service Corps (NSSC). The collective name for the Senior Companion Program (SCP), the Foster Grandparent Program (FGP), the Retired and Senior Volunteer Program (RSVP), and Demonstration Programs, all of which are established under Parts A, B, C, and E, Title II of the Act. NSSC is also referred to as the "Senior Corps".

Non-CNCS support (excess). The amount of non-CNCS cash and in-kind contributions generated by a sponsor in excess of the required percentage.

Non-CNCS support (match). The percentage share of non-CNCS cash and in-kind contributions required to be raised by the sponsor in support of the grant.

Performance measures. Indicators that help determine the impact of an SCP project on the community and clients served, including the volunteers.

Project. The locally planned SCP activity or set of activities in a service area as approved by CNCS and implemented by the sponsor.

Proprietary Health Care Organizations. Private, for-profit health care organization that serves one or more vulnerable populations.

Service area. The geographically defined area(s) in which Senior Companions are enrolled and placed on assignments.

* * * * *

Sponsor. A public agency, including Indian tribes as defined in section 421(5) of the Act, and private, non-profit organizations, both secular and faith-based, in the United States that have authority to accept and the capability to administer a Senior Companion project.

Stipend. A payment to Senior Companions to enable them to serve without cost to themselves. The amount of the stipend is set by CNCS in accordance with federal law.

United States and Territories. Each of the several States, the District of Columbia, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, Guam and American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands.

Volunteer assignment plan. A written description of a Senior Companion's assignment with a client. The plan identifies specific outcomes for the client served and the activities of the Senior Companion.

Volunteer station. A public agency; a private, non-profit organization, secular or faith-based; or a proprietary health care organization. A volunteer station must accept responsibility for the assignment and supervision of Senior Companions in health, education, social service or related settings such as multi-purpose centers, home health care agencies, or similar establishments. Each volunteer station must be licensed or otherwise certified, when required, by the appropriate state or local government. Private homes are not volunteer stations.

3. Revise § 2551.21 to read as follows:

§ 2551.21 Who is eligible to serve as a sponsor?

CNCS awards grants to public agencies, including Indian tribes as defined in section 421(5) of the Act, and private, non-profit organizations, both secular and faith-based, in the United States that have authority to accept and the capability to administer a Senior Companion project.

4. Revise § 2551.22 to read as follows:

§ 2551.22 What are the responsibilities of a sponsor?

A sponsor is responsible for fulfilling all project management requirements necessary to accomplish the purposes of the Senior Companion Program as specified in the Act. A sponsor shall not delegate or contract these overall management responsibilities to another entity. CNCS retains the right to determine what types of management responsibilities may or may not be contracted.

5. Amend § 2551.23 as follows:

- a. Revise the section heading and paragraphs (a), (b), and (c) introductory text.
- b. Remove the word “and” from the end of paragraph (c)(2)(iii).
- c. Revise paragraphs (c)(2)(iv), (f), and (g).
- d. Remove paragraphs (i) and (j);
- e. Redesignate paragraphs (k) and (l) as (i) and (j), respectively, and revise newly redesignated paragraphs (i) and (j).
- f. Add new paragraphs (k) and (l).

The revisions and additions read as follows:

§ 2551.23 What are a sponsor's project responsibilities?

* * * * *

(a) Focus Senior Companion resources within the project's service area, on critical problems affecting the frail elderly and other adults with special needs.

(b) In collaboration with other community organizations or by using existing assessments, assess the needs of the community or service area, and develop strategies to respond to identified needs using Senior Companions.

(c) Develop and manage one or more volunteer stations by:

(2) * * *

(iv) That states the station will not discriminate against SCP volunteers, service beneficiaries, or in the operation of its program on the basis of race, color, national origin including individuals with limited English proficiency, gender, age, religion, sexual orientation, disability, gender identity or expression, political affiliation, marital or parental status, or military service; and

* * * * *

(f) Provide Senior Companions with assignments that show direct and demonstrable benefits to the adults and the community served, the Senior Companions, and the volunteer station; with required cost reimbursements specified in § 2551.46; with 20 hours of pre-service orientation and at least 24 hours annually of in-service training.

(g) Encourage the most efficient and effective use of Senior Companions by coordinating project services and activities with related national, state and local programs, including other CNCS programs.

* * * * *

(i) Establish written service policies for Senior Companions that include but are

not limited to:

- (1) Annual and sick leave.
- (2) Holidays.
- (3) Service schedules.
- (4) Termination and appeal procedures.
- (5) Meal and transportation reimbursements.

(j) Conduct National Service Criminal History Checks in accordance with the requirements in 45 CFR 2540.200 through 2540.207.

(k) Provide Senior Companion volunteers with cost reimbursements specified in this section.

(l) Make every effort to meet such performance measures as established in the approved grant application.

6. Revise § 2551.24(a)(2), (3), and (4) to read as follows;

§ 2551.24 What are a sponsor's responsibilities for securing community participation?

(a) * * *

(2) With an interest in the field of community service and volunteerism;

(3) Capable of helping the sponsor satisfy its administrative and program responsibilities including fund-raising, publicity, and meeting or exceeding performance measures;

(4) With an interest in, and knowledge of, the range of abilities of older adults;

and

* * * * *

7. Amend §2551.25 as follows:

- a. Revise paragraph (c).
- b. Revise paragraphs (e) through (h).

The revisions read as follows.

§ 2551.25 What are a sponsor's administrative responsibilities?

* * * * *

(c) Employ a full-time project director to accomplish project objectives and manage the functions and activities delegate to project staff for Senior Corps project(s) within its control. The project director may participate in activities to coordinate project resources with those of related local agencies, boards or organizations. A full-time project director shall not serve concurrently in another capacity, paid or unpaid, during established working hours. A sponsor may negotiate the employment of a part-time project director with CNCS when the sponsor can demonstrate that such an arrangement will not adversely affect the size, scope, or quality of project operations.

* * * * *

(e) Compensate project staff at a level that is comparable to similar staff positions in the sponsor organization and/or project service area, as is practicable.

(f) Establish risk management policies and procedures covering Senior Companion project activities. This includes provision of appropriate insurance coverage

for Senior Companions, which includes; accident insurance, personal liability insurance, and excess automobile liability insurance.

(g) Establish record keeping and reporting systems in compliance with CNCS requirements that ensure quality of program and fiscal operations, facilitate timely and accurate submission of required reports and cooperate with CNCS evaluation and data collection efforts.

(h) Comply with, and ensure that all volunteer stations comply with, all applicable civil rights laws and regulations, including non-discrimination based on disability.

§2551.33 [Removed and Reserved]

8. Remove and reserve §2551.33.

9. Revise §2551.34(a)(3) and (b) to read as follows:

§2551.34 What are the rules on suspension, termination, and denial of refunding of grants?

(a) * * *

(3) In any case where an application for refunding is denied for failure to comply with the terms and conditions of the grant, the recipient shall be afforded an opportunity for an informal hearing before an impartial hearing officer, who has been agreed to by the recipient and CNCS; and

* * * * *

(b) Hearings or other meetings as may be necessary to fulfill the requirements of this section should, to the extent practicable, be held in locations convenient to the recipient agency.

* * * * *

10. Amend §2551.41 as follows:

- a. Add the word “and” at the end of paragraph (a)(1).
- b. Remove paragraphs (a)(2) and (3).
- c. Redesignate paragraph (a)(4) as (a)(2).
- d. Revise paragraph (b).

The revisions read as follows:

§2551.41 Who is eligible to be a Senior Companion?

* * * * *

(b) Eligibility to serve as a Senior Companion shall not be restricted on the basis of formal education, experience, race, color, national origin including limited English proficiency, gender, age, religion, sexual orientation, disability, gender identity or expression, political affiliation, marital or parental status, or military service.

11. Revise §2551.43(b) to read as follows:

§2551.43 What income guidelines govern eligibility to serve as a stipended Senior Companion?

* * * * *

(b) For applicants to become stipended Senior Companions, annual income is projected for the following 12 months, based on income at the time of application. For serving stipended Senior Companions, annual income is counted for the past 12 months.

Annual income includes the applicant or enrollee's income and that of his/her spouse, if the spouse lives in the same residence.

* * * * *

12. Amend §2551.44 as follows:

a. Revise paragraphs (a)(1), (3), and (4).

b. Remove the period at the end of paragraph (b)(2) and add a semicolon in its place.

c. Add paragraphs (b)(3) through (5).

The revisions and additions read as follows:

§2551.44 What is considered income for determining volunteer eligibility?

(a) * * *

(1) Money, wages, and salaries before any deduction;

* * * * *

(3) Social Security, Unemployment or Workers Compensation, strike benefits, training stipends, alimony, and military family allotments, or other regular support from an absent family member or someone not living in the household;

(4) Government employee pensions, private pensions, regular insurance or annuity payments, and 401(k) or other retirement savings plans;

* * * * *

(b) * * *

(3) Regular payments for public assistance, including Supplemental Nutrition Assistance Program (SNAP);

- (4) Social Security Disability or any type of disability payment; and
- (5) Food or rent received in lieu of wages.

13. Revise §2551.45 to read as follows:

§2551.45 Is a Senior Companion a federal employee, an employee of the sponsor or of the volunteer station?

Senior Companions are volunteers, and are not employees of the sponsor, the volunteer station, CNCS, or the Federal Government.

14. Amend §2551.46 as follows:

- a. Revise the section heading, introductory text, and paragraphs (a), (b) introductory text, (b)(1) and (2), (b)(3)(i)(A) and (B), (b)(3)(ii), (c), (d), and (e).
- b. Remove paragraph (f).
- c. Redesignate paragraph (g) as (f) and revise newly redesignated paragraph (f).
- d. Add a new paragraph (g).

The revisions and addition read as follows:

§2551.46 What cost reimbursements and benefits do sponsors provide to Senior Companions?

Cost reimbursements and benefits provided by sponsors include:

- (a) Stipend. The stipend is paid for the time Senior Companions spend with their assigned clients, for earned leave, and for attendance at official project events.
- (b) Insurance. Insurance is made available to Senior Companions with the CNCS specified minimum levels of insurance as follows:

(1) Accident insurance. Accident insurance covers Senior Companions for personal injury during travel between their homes and places of assignment, during their service, during meal periods while serving as a Senior Companion, and while attending project-sponsored activities. Protection shall be provided against claims in excess of any benefits or services for medical care or treatment available to the Senior Companion from other sources.

(2) Personal liability insurance. Protection is provided against claims in excess of protection provided by other insurance. Such protection does not include professional liability coverage.

(3) * * *

(i) * * *

(A) Liability insurance Senior Companions carry on their own automobiles; or

(B) The limits of applicable state financial responsibility law, or in its absence, levels of protection that CNCS determines, and that the sponsor must provide, for each person, and each accident, and for property damage.

(ii) Senior Companions who drive their personal vehicles to, or on, assignments or project-related activities, shall maintain personal automobile liability insurance equal to or exceeding the levels established by CNCS.

(c) Transportation. Senior Companions shall receive assistance with the cost of transportation to and from, assignments and official project activities, including orientation, training, and recognition events.

(d) Meals. Senior Companions may be provided assistance with the cost of meals taken while on assignment, within limits of the project's available resources.

(e) Recognition. Senior Companion volunteers shall be provided recognition for their service.

(f) Physical examination. Senior Companions may be provided a physical examination or assistance with the cost of a physical examination prior to assignment and annually thereafter.

(g) Other volunteer expenses. Senior Companions may also be reimbursed for allowable out-of-pocket expenses incurred while performing their assignments.

15. Revise §2551.47 to read as follows:

§2551.47 May the cost reimbursements and benefits of a Senior Companion be subject to any tax or charge, be treated as wages or compensation, or affect eligibility to receive assistance from other programs?

No. Senior Companion's cost reimbursements and benefits are not subject to any tax or charge or treated as wages or compensation for the purposes of unemployment insurance, worker's compensation, temporary disability, retirement, public assistance, or similar benefit payments or minimum wage laws. Cost reimbursements and benefits are not subject to garnishment and do not reduce or eliminate the level of, or eligibility for, assistance or services a Senior Companion may be receiving under any governmental program.

16. Revise §2551.51 to read as follows:

§2551.51 What are the terms of service of a Senior Companion?

A Senior Companion shall serve a minimum of 260 hours annually, or a minimum of 5 hours per week. A Senior Companion may serve a maximum of 2080 hours annually, or a maximum of 40 hours per week. Within these limitations, a sponsor may set service policies consistent with local needs.

17. Revise §2551.52(c) to read as follows:

§2551.52 What factors are considered in determining a Senior Companion's service schedule?

* * * * *

(c) Meal time may be part of the service schedule and is stipended.

18. Revise §2551.53 to read as follows:

§2551.53 Under what circumstances may a Senior Companion be removed from service?

(a) A sponsor may remove a Senior Companion from service for cause. Grounds for removal include, but are not limited to: extensive and unauthorized absences; misconduct; failure to perform assignments or failure to accept supervision. A Senior Companion may also be removed from stipended service for having income in excess of the eligibility level. A Senior Companion shall be removed immediately if ineligible to serve based on criminal history check results.

(b) The sponsor shall establish appropriate policies on removal from service, as well as procedures for appeal.

19. Revise §2551.61 to read as follows:

§2551.61 May a sponsor serve as a volunteer station?

Yes. A sponsor may serve as a volunteer station, if the activities are part of a work plan in the approved project application.

20. Amend §2551.62 as follows:

- a. Revise paragraphs (c) and (d).
- b. Add the word “and” at the end of paragraph (e)(1).
- c. Revise paragraph (e)(2).
- d. Remove paragraph (e)(3).
- e. Revise paragraphs (i) and (j).

The revisions read as follows:

§2551.62 What are the responsibilities of a volunteer station?

* * * * *

(c) Develop a written volunteer assignment plan for each Senior Companion that identifies their roles and activities, each client served, and expected outcomes.

(d) Keep a Letter of Agreement for each client who receives in-home service.

(e) * * *

(2) Resources required for performance of assignments, including reasonable accommodation, as needed, to enable Senior Companions with disabilities to perform the essential functions of their service.

* * * * *

(i) Comply with all applicable civil rights laws and regulations, including providing Senior Companions with disabilities reasonable accommodation, to perform the essential functions of their service.

(j) Undertake such other responsibilities as may be necessary for the successful performance of Senior Companions in their assignments or as agreed to in the Memorandum of Understanding.

§ 2551.71 [Amended]

21. Amend § 2551.71 by removing paragraph (b) and redesignating paragraph (c) as (b).

22. Amend §2551.72 as follows:

a. Revise the section heading and paragraph (a)(5).

b. Remove and reserve paragraph (b).

c. Remove paragraph (c).

The revisions read as follows:

§2551.72 Is a written volunteer assignment plan required for each Senior Companion?

(a) * * *

(5) Is used to review the impact of the assignment on the client(s).

* * * * *

23. Add §2551.73 to subpart G to read as follows:

§2551.73 May a Senior Companion serve as a volunteer leader?

Yes. Senior Companions- who on the basis of experience as volunteers, special skills, and demonstrated leadership abilities- may spend time, in addition to their regular assignment, to assist newer Senior Companion volunteers in performing their assignments and in coordinating activities of such volunteers.

(a) All Senior Companions serving as volunteer leaders shall receive a written volunteer assignment plan developed by the volunteer station that:

- (1) Is approved by the sponsor and accepted by the Senior Companion;
- (2) Identifies the role and activities of the Senior Companion and expected outcomes;
- (3) Addresses the period of time of service; and
- (4) Is used to review the status of the Senior Companion's services identified in the assignment plan, as well as the impact of those services.

(b) While serving in the capacity of a volunteer leader, a Senior Companion may be paid a stipend (at the same rate as the established Senior Companion stipend) for his or her additional hours served as a volunteer leader.

(c) Senior Companion leaders, through recognition, may receive an additional monetary incentive.

24. Revise §2551.91 to read as follows:

§2551.91 What is the process for application and award of a grant?

(a) How and when may an eligible organization apply for a grant? (1) An eligible organization may file an application in response to CNCS' published request, such as a Notice of Funding Opportunity or a Notice of Funding Availability. Applicants are not assured of selection or approval and may have to compete with other applicants.

(2) The applicant shall comply with the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs," (3 CFR, 1982 Comp., p. 197) in 45 CFR part 1233 and any other applicable requirements.

(b) Who reviews the merits of an application and how is a grant awarded? (1)

CNCS reviews and determines the merit of an application by its responsiveness to published guidelines and to the overall purposes and objectives of the program. When funds are available, CNCS awards a grant in writing to each applicant whose grant proposal provides the best potential for serving the purpose of the program.

(2) The award will be documented by the Notice of Grant Award (NGA). CNCS and the sponsoring organization are the parties to the NGA. The NGA will document the sponsor's commitment to fulfill specific programmatic objectives and financial obligations. It will document the extent of CNCS' obligation to provide financial support to the sponsor.

(c) What happens if CNCS rejects an application? CNCS will notify the applicant if the applicant is not approved for funding, along with an explanation of CNCS' decision.

(d) For what period of time does CNCS award a grant? CNCS awards a Senior Companion grant for a specified period that is usually three years in duration.

25. Amend §2551.92 as follows:

a. Revise paragraphs (a), (b) introductory text, (c), and (d).

b. Remove paragraph (e).

c. Redesignate paragraph (f) as (e) and revise newly redesignated paragraph (e).

The revisions read as follows:

§2551.92 What are project funding requirements?

(a) Is non-CNCS support required? A CNCS grant may be awarded to fund up to 90 percent of the cost of development and operation of a Senior Companion project. The

sponsor is required to contribute at least 10 percent of the total project cost from non-Federal sources or authorized Federal sources.

(b) Under what circumstances does CNCS allow less than the 10 percent non-CNCS support? CNCS may allow exceptions to the 10 percent local support requirement in cases of demonstrated need such as:

* * * * *

(c) May CNCS restrict how a sponsor uses locally generated contributions in excess of the 10 percent non-CNCS support required? Whenever locally generated contributions to Senior Companion projects are in excess of the minimum 10 percent non-CNCS support required, CNCS may not restrict the manner in which such contributions are expended provided such expenditures are consistent with the provisions of the Act.

(d) Are program expenditures subject to audit? All expenditures by the grantee of Federal and non-Federal funds, including expenditures from excess locally generated contributions in support of the grant, are subject to audit by CNCS, its Inspector General, or their authorized agents.

(e) May a sponsor pay stipends at rates different than those established by CNCS?

No, a sponsor shall pay stipends at rates established by CNCS.

26. Amend §2551.93 as follows:

- a. Revise the section heading.
- b. Remove the word “and” from the end of paragraph (a)(3).
- c. Revise paragraph (a)(4).

d. Add paragraph (a)(5).

e. Revise paragraphs (b), (e), and (f).

The revisions and addition read as follows:

§2551.93 What are a sponsor's legal requirements in managing grants?

* * * * *

(a) * * *

(4) All applicable CNCS policies; and

(5) All other applicable CNCS requirements.

(b) Project support provided under a CNCS grant shall be furnished at the lowest possible cost consistent with the effective operation of the project.

* * * * *

(e) Payments to settle discrimination complaints, either through a settlement agreement or formal adjudication, are not allowable costs.

(f) Written CNCS approval is required for the following changes in the approved grant:

(1) Reduction in budgeted volunteer service years.

(2) Change in the service area.

27. Revise §2551.101 to read as follows:

§2551.101 What rule governs the recruitment and enrollment of persons who do not meet the income eligibility guidelines to serve as Senior Companions?

Over-income persons as described in § 2551.43, age 55 or over, may be enrolled in SCP project as non-stipended volunteers.

28. Amend §2551.102 as follows:

a. Revise paragraphs (b) and (d).

b. Remove paragraphs (e) and (f).

c. Redesignate paragraph (g) as (e) and revise newly redesignated paragraph (e).

The revisions read as follows:

2551.102 What are the conditions of service of non-stipended Senior Companions?

* * * * *

(b) No special privilege or status is granted or created among Senior Companions, whether stipended or non-stipended, and equal treatment is required.

* * * * *

(d) All regulations and requirements applicable to the program apply to Senior Companions.

(e) Non-stipended Senior Companions may contribute the costs they incur in connection with their participation in the program. An SCP project may not count such contributions as part of the required non-CNCS support (match) for the grant.

29. Revise §2551.103 to read as follows:

§2551.103 Must a sponsor be required to enroll non-stipended Senior Companions?

No. Enrollment of non-stipended Senior Companions is not a condition for a sponsor to receive a new or continuation grant.

§2551.104 [Removed and Reserved]

30. Remove and reserve §2551.104.

31. Revise the heading for subpart K to read as follows:

Subpart K—Non-CNCS Funded Senior Companion Projects

32. Revise §2551.111 to read as follows:

§2551.111 Under what conditions may an agency or organization sponsor a Senior Companion project without CNCS funding?

An eligible agency or organization who wishes to sponsor a Senior Companion project without CNCS funding must make an application through the designated grants management system which is approved by CNCS and documented through the Notice of Grant Agreement (NGA).

33. Amend §2551.112 by revising the section heading, introductory text, and paragraph (a) to read as follows:

§2551.112 What are the resources and benefits to which a non-CNCS funded project is entitled?

The Notice of Grant Award entitles the sponsor of a Non-CNCS funded project to:

(a) All technical assistance and materials provided to CNCS funded Senior Companion projects; and

* * * * *

34. Revise §2551.113 to read as follows:

§2551.113 What financial obligation does CNCS incur for non-CNCS funded projects?

Issuance of an NGA to a sponsor of a non-CNCS funded project does not create a financial obligation on the part of CNCS for any costs associated with the project.

35. Revise §2551.114 to read as follows:

§2551.114 What happens if a non-CNCS funded sponsor does not comply with the NGA?

A non-CNCS funded project sponsor's noncompliance with the NGA may result in suspension or termination CNCS' agreement and all benefits specified in §2551.112.

36. Revise §2551.121(c)(2), (g), and (h) to read as follows:

§2551.121 What legal limitations apply to the operation of the Senior Companion Program and to the expenditure of grant funds?

* * * * *

(c) * * *

(2) This section does not prohibit a sponsor from soliciting and accepting voluntary contributions from the community at large to meet its local support obligations under the grant or from entering into agreements with parties other than beneficiaries to support additional volunteers beyond those supported by CNCS.

* * * * *

(g) *Religious activities.* (1) A Senior Companion or a member of the project staff funded by CNCS shall not give religious instruction, conduct worship services, or engage in any form of proselytization as part of his/her duties.

(2) A sponsor or volunteer station may retain its independence and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs, provided that it does not use CNCS funds to support any inherently religious activities, such as worship, religious instruction, or proselytization, as part of the

programs or services funded. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part.

(h) *Nepotism*. Persons selected for project staff positions shall not be related by blood or marriage to other project staff, sponsor staff or officers, or members of the sponsor Board of Directors, unless there is written concurrence from the Advisory Council or community group established by the sponsor under subpart B of this part, and with notification to CNCS.

37. Revise §2551.122 to read as follows:

§2551.122 What legal coverage does CNCS make available to Senior Companions?

It is within CNCS's discretion to determine if Counsel is employed and counsel fees, court costs, bail and other expenses incidental to the defense of a SCP volunteer are paid in a criminal, civil or administrative proceeding, when such a proceeding arises directly out of performance of the volunteer's activities. The circumstances under which CNCS may pay such expenses are specified in 45 CFR part 1220.

PART 2552 – FOSTER GRANDPARENT PROGRAM

38. The authority citation for part 2552 continues to read as follows:

Authority: 42 U.S.C. 4950 *et seq.*; 42 U.S.C. 12651b-12651d; E.O. 13331, 69 FR 9911.

39. Revise §2552.11 to read as follows:

§2552.11 What is the Foster Grandparent Program?

The Foster Grandparent Program provides grants to qualified agencies and organizations for the dual purpose of engaging persons 55 and older, particularly those with limited incomes, in volunteer service to meet critical community needs; and to provide a high quality experience that will enrich the lives of the volunteers. Program funds are used to support Foster Grandparents in providing supportive, person to person service to children with special and or exceptional needs, or in circumstances that limit their academic, social or emotional development.

40. Amend § 2552.12 as follows:

- a. Remove paragraphs (h), (n), (o), (r), (w), and (x).
- b. Remove all alphabetical paragraph designations.
- c. Revise the definitions of “Adequate staffing level”, “Chief Executive Officer”, and “Children having exceptional needs”.
- d. Add the definition of “CNCS” in alphabetical order.
- e. Revise the definitions of “Cost reimbursements”, “Letter of Agreement”, and “National Senior Service Corps (NSSC)”.
- f. Add the definitions of “Non-CNCS support (excess)”, “Non-CNCS support (match)”, and “Performance measures” in alphabetical order.
- g. Revise the definition of “Project”.
- h. Add the definition of “Proprietary Health Care Organization” in alphabetical order.
- i. Revise the definitions of “Service area”, “Sponsor”, and “Stipend”.

j. Add the definition of “United States and Territories” in alphabetical order.

k. Revise the definitions of “Volunteer assignment plan” and “Volunteer station”.

The revisions and additions read as follows:

§ 2552.12 Definitions.

* * * * *

Adequate staffing level. The number of project staff or full time equivalent needed by a sponsor to manage the National Senior Service Corps (NSSC) project operations considering such factors as: number of budgeted Volunteer Service Years (VSYs), number of volunteer stations, and the size of the service area.

* * * * *

Chief Executive Officer. The Chief Executive Officer of CNCS appointed under the National and Community Service Act of 1990, as amended, (NCSA), 42 U.S.C. 12501 *et seq.*

* * * * *

Children having exceptional needs. Children who have a developmental disability, such as those who have autism, intellectual disability, cerebral palsy or epilepsy, a visual impairment, speech impairment, hearing impairment, or orthopedic impairment, an emotional or behavioral disorder, a language disorder, a specific learning disability, multiple disabilities, other significant health impairments, or have literacy, math or other educational assistance needs. Before a Foster Grandparent is assigned to the child, existence of a child's exceptional need shall be verified by an appropriate professional, such as a physician, psychiatrist, psychologist, including school

psychologists, registered nurse or licensed practical nurse, speech therapist, licensed clinical social worker, or educator.

* * * * *

CNCS. The Corporation for National and Community Service established under the NCSA, as amended, 42 U.S.C. 12501 *et seq.*

Cost reimbursements. Reimbursements budgeted as Volunteer Expenses and provided to volunteers, including stipends to cover incidental costs, transportation, meals, recognition, supplemental accident, personal liability and excess automobile liability insurance, and other expenses as negotiated in the Memorandum of Understanding.

* * * * *

Letter of Agreement. A written agreement between a volunteer station or sponsor, and person(s) served or the person legally responsible for that person. It authorizes the assignment of an FGP volunteer in the home of a client, defines FGP volunteer activities, and specifies supervision arrangements.

* * * * *

National Senior Service Corps (NSSC). The collective name for the Senior Companion Program (SCP), the Foster Grandparent Program (FGP), the Retired and Senior Volunteer Program (RSVP), and Demonstration Programs, all of which are established under Parts A, B, C, and E, Title II of the Act. NSSC is also referred to as the "Senior Corps".

Non-CNCS support (excess). The amount of non-Federal cash and in-kind contributions generated by a sponsor in excess of the required percentage.

Non-CNCS support (match). The percentage share of non-CNCS cash and in-kind contributions required to be raised by the sponsor in support of the grant.

* * * * *

Performance measures. Indicators that help determine the impact of an FGP project on the community and clients served, including the volunteers.

Project. The locally planned FGP activity or set of activities in a service area as approved by CNCS and implemented by the sponsor.

Proprietary Health Care Organizations. Private, for-profit health care organization that serves one or more vulnerable populations.

Service area. The geographically defined area(s) in which Foster Grandparents are enrolled and placed on assignments.

* * * * *

Sponsor. A public agency, including Indian tribes as defined in section 421(5) of the Act, and private, non-profit organizations, both secular and faith-based, in the United States that have authority to accept and the capability to administer a Foster Grandparent project.

Stipend. A payment to Foster Grandparents to enable them to serve without cost to themselves. The amount of the stipend is set by CNCS in accordance with federal law.

United States and Territories. Each of the several States, the District of Columbia, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, Guam and American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands.

Volunteer assignment plan. A written description of a Foster Grandparent's assignment with a child. The plan identifies specific outcomes for the child served and the activities of the Foster Grandparent.

Volunteer station. A public agency; a private, non-profit organization, secular or faith-based; or a proprietary health care organization. A volunteer station must accept responsibility for the assignment and supervision of Foster Grandparents in health, education, social service or related settings such as multi-purpose centers, home health care agencies, or similar establishments. Each volunteer station must be licensed or otherwise certified, when required, by the appropriate state or local government. Private homes are not volunteer stations.

41. Revise § 2552.21 to read as follows:

§ 2552.21 Who is eligible to serve as a sponsor?

CNCS awards grants to public agencies, including Indian tribes as defined in section 421(5) of the Act, and private, non-profit organizations, both secular and faith-based, in the United States that have authority to accept and the capability to administer a Foster Grandparent project.

42. Revise § 2552.22 to read as follows:

§ 2552.22 What are the responsibilities of a sponsor?

A sponsor is responsible for fulfilling all project management requirements necessary to accomplish the purposes of the Foster Grandparent Program as specified in the Act. A sponsor shall not delegate or contract these overall management

responsibilities to another entity. CNCS retains the right to determine what types of management responsibilities may or may not be contracted.

43. Amend § 2552.23 as follows:

- a. Revise the section heading and paragraphs (a), (b), and (c) introductory text.
- b. Remove the word “and” from the end of paragraph (c)(2)(iii).
- c. Revise paragraphs (c)(2)(iv), (f), and (g).
- d. Remove paragraphs (i) and (j).
- e. Redesignate paragraphs (k) and (l) as (i) and (j), respectively, and revise newly redesignated paragraphs (i) and (j).
- f. Add new paragraphs (k) through (l).

The revisions and additions read as follows:

§ 2552.23 What are a sponsor's project responsibilities?

* * * * *

(a) Focus Foster Grandparent resources, within the project's service area, on providing supportive services and companionship to children with special and exceptional needs, or in circumstances that limit their academic, social or emotional development.

(b) In collaboration with other community organizations or by using existing assessments, assess the needs of the community or service area, and develop strategies to respond to identified needs using Foster Grandparents.

(c) Develop and manage one or more volunteer stations by:

(2) * * *

(iv) That states the station will not discriminate against FGP volunteers, service beneficiaries, or in the operation of its program on the basis of race, color, national origin including individuals with limited English proficiency, gender, age, religion, sexual orientation, disability, gender identity or expression, political affiliation, marital or parental status, or military service; and

* * * * *

(f) Provide Foster Grandparents with assignments that show direct and demonstrable benefits to the children and the community served, the Foster Grandparents, and the volunteer station; with required cost reimbursements specified in § 2552.46; with 20 hours of pre-service orientation and at least 24 hours annually of in-service training.

(g) Encourage the most efficient and effective use of Foster Grandparents by coordinating project services and activities with related national, state and local programs, including other CNCS programs.

* * * * *

(i) Establish written service policies for Foster Grandparents that include but are not limited to:

- (1) Annual and sick leave.
- (2) Holidays.
- (3) Service schedules.
- (4) Termination and appeal procedures.
- (5) Meal and transportation reimbursements.

(j) Conduct National Service Criminal History Checks in accordance with the requirements in 45 CFR 2540.200 through 2540.207.

(k) Provide Foster Grandparent volunteers with cost reimbursements specified in this section.

(l) Make every effort to meet such performance measures as established in the approved grant application.

44. Revise § 2552.24(a)(2), (3), and (4) to read as follows:

§ 2552.24 What are a sponsor's responsibilities for securing community participation?

(a) * * *

(2) With an interest in the field of community service and volunteerism;

(3) Capable of helping the sponsor satisfy its administrative and program responsibilities including fund-raising, publicity and meeting or exceeding performance measures;

(4) With an interest in, and knowledge of, the range of abilities of older adults;
and

* * * * *

45. Amend §2552.25 as follows:

a. Revise paragraph (c).

b. Revise paragraphs (e) through (h).

The revisions read as follows:

§ 2552.25 What are a sponsor's administrative responsibilities?

* * * * *

(c) Employ a full-time project director to accomplish project objectives and manage the functions and activities delegate to project staff for Senior Corps project(s) within its control. The project director may participate in activities to coordinate project resources with those of related local agencies, boards or organizations. A full-time project director shall not serve concurrently in another capacity, paid or unpaid, during established working hours. A sponsor may negotiate the employment of a part-time project director with CNCS when the sponsor can demonstrate that such an arrangement will not adversely affect the size, scope or quality of project operations.

* * * * *

(e) Compensate project staff at a level that is comparable to similar staff positions in the sponsor organization and/or project service area, as is practicable.

(f) Establish risk management policies and procedures covering Foster Grandparent project activities. This includes provision of appropriate insurance coverage for Foster Grandparents, which includes; accident insurance, personal liability insurance, and excess automobile liability insurance.

(g) Establish record keeping and reporting systems in compliance with CNCS requirements that ensure quality of program and fiscal operations, facilitate timely and accurate submission of required reports and cooperate with CNCS evaluation and data collection efforts.

(h) Comply with, and ensure that all volunteer stations comply with, all applicable civil rights laws and regulations, including non-discrimination based on disability.

§2552.33 [Removed and Reserved]

46. Remove and reserve §2552.33.

47. Revise §2552.34(a)(3) and (b) to read as follows:

§2552.34 What are the rules on suspension, termination, and denial of refunding of grants?

(a) * * *

(3) In any case where an application for refunding is denied for failure to comply with the terms and conditions of the grant, the recipient shall be afforded an opportunity for an informal hearing before an impartial hearing officer, who has been agreed to by the recipient and CNCS; and

* * * * *

(b) Hearings or other meetings as may be necessary to fulfill the requirements of this section should, to the extent practicable, be held in locations convenient to the grant recipient.

* * * * *

48. Revise the heading for subpart D to read as follows:

Subpart D-Foster Grandparent Eligibility, Status, Cost Reimbursements and Benefits

49. Amend §2552.41 as follows:

a. Add the word “and” at the end of paragraph (a)(1).

b. Remove paragraphs (a)(2) and (3).

c. Redesignate paragraph (a)(4) as (a)(2) and revise newly redesignated paragraph

(a)(2).

d. Revise paragraph (b).

The revisions read as follows:

§2552.41 Who is eligible to be a Foster Grandparent?

(a) * * *

(2) In order to receive a stipend, have an income that is within the income eligibility guidelines specified in this subpart.

(b) Eligibility to serve as a Foster Grandparent shall not be restricted on the basis of formal education, experience, race, color, national origin including limited English proficiency, gender, age, religion, sexual orientation, disability, gender identity or expression, political affiliation, marital or parental status, or military service.

50. Revise §2552.43(b) to read as follows:

§2552.43 What income guidelines govern eligibility to serve as a stipended Foster Grandparent?

* * * * *

(b) For applicants to become stipended Foster Grandparents, annual income is projected for the following 12 months, based on income at the time of application. For serving stipended Foster Grandparents, annual income is counted for the past 12 months. Annual income includes the applicant or enrollee's income and that of his/her spouse, if the spouse lives in the same residence.

* * * * *

51. Amend §2552.44 by revising paragraphs (a)(1), (3) and (4) and adding paragraphs (b)(3) through (5) to read as follows:

§2552.44 What is considered income for determining volunteer eligibility?

(a) * * *

(1) Money, wages, and salaries before any deduction;

* * * * *

(3) Social Security, Unemployment or Workers Compensation, strike benefits, training stipends, alimony, and military family allotments, or other regular support from an absent family member or someone not living in the household;

(4) Government employee pensions, private pensions, regular insurance or annuity payments, and 401(k) or other retirement savings plans;

* * * * *

(b) * * *

(3) Regular payments for public assistance including the Supplemental Nutrition Assistance Program (SNAP).

(4) Social Security Disability or any type of disability payment.

(5) Food or rent received in lieu of wages.

52. Revise §2552.45 to read as follows:

§2552.45 Is a Foster Grandparent a federal employee, an employee of the sponsor or of the volunteer station?

Foster Grandparents are volunteers, and are not employees of the sponsor, the volunteer station, CNCS or the Federal Government.

53. Amend §2552.46 by revising the section heading, introductory text, and paragraphs (a), (b) introductory text, (b)(1) and (2), (b)(3)(i)(A) and (B), (b)(3)(ii), (c), (d), (e), and (f), and adding paragraph (g), to read as follows:

§2552.46 What cost reimbursements and benefits do sponsors provide to Foster Grandparents?

Cost reimbursements and benefits include:

(a) Stipend. The stipend is paid for the time Foster Grandparents spend with their assigned children, for earned leave, and for attendance at official project events.

(b) Insurance. A Foster Grandparent is provided with the CNCS specified minimum levels of insurance as follows:

(1) Accident insurance. Accident insurance covers Foster Grandparents for personal injury during travel between their homes and places of assignment, during their service, during meal periods while serving as a Foster Grandparent, and while attending project-sponsored activities. Protection shall be provided against claims in excess of any benefits or services for medical care or treatment available to the Foster Grandparent from other sources.

(2) Personal liability insurance. Protection is provided against claims in excess of protection provided by other insurance. Such protection does not include professional liability coverage.

(3) * * *

(i) * * *

(A) Liability insurance Foster Grandparents carry on their own automobiles; or

(B) The limits of applicable state financial responsibility law, or in its absence, levels of protection to be determined by CNCS for each person, each accident, and for property damage.

(ii) Foster Grandparents who drive their personal vehicles to, or on, assignments or project-related activities, shall maintain personal automobile liability insurance equal to or exceeding the levels established by CNCS.

(c) Transportation. Foster Grandparents shall receive assistance with the cost of transportation to and from, assignments and official project activities, including orientation, training, and recognition events.

(d) Meals. Foster Grandparents may be provided assistance with the cost of meals taken while on assignment, within limits of the project's available resources.

(e) Recognition. Foster Grandparent volunteers shall be provided recognition for their service.

(f) Physical examination. Foster Grandparents may be provided a physical examination or assistance with the cost of a physical examination prior to assignment and annually thereafter.

(g) Other volunteer expenses. Foster Grandparents may also be reimbursed for allowable out-of-pocket expenses incurred while performing their assignments

54. Revise §2552.47 to read as follows:

§2552.47 May the cost reimbursements and benefits received by a Foster Grandparent be subject to any tax or charge, be treated as wages or compensation, or affect eligibility to receive assistance from other programs?

No. Foster Grandparent's cost reimbursements and benefits are not subject to any tax or charge or treated as wages or compensation for the purposes of unemployment insurance, worker's compensation, temporary disability, retirement, public assistance, or similar benefit payments or minimum wage laws. Cost reimbursements and benefits are not subject to garnishment and do not reduce or eliminate the level of, or eligibility for, assistance or services a Foster Grandparent may be receiving under any governmental program.

55. Revise §2552.51 to read as follows:

§2552.51 What are the terms of service of a Foster Grandparent?

A Foster Grandparent shall serve a minimum of 260 hours annually, or a minimum of 5 hours per week. A Foster Grandparent may serve a maximum of 2080 hours annually, or a maximum of 40 hours per week. Within these limitations, a sponsor may set service policies consistent with local needs.

56. Revise §2552.52(c) to read as follows:

§2552.52 What factors are considered in determining a Foster Grandparent's service schedule?

* * * * *

(c) Meal time may be part of the service schedule and is stipended.

57. Revise §2552.53 to read as follows:

§2552.53 Under what circumstances may a Foster Grandparent be removed from service?

(a) A sponsor may remove a Foster Grandparent from service for cause. Grounds

for removal include, but are not limited to: extensive and unauthorized absences; misconduct; failure to perform assignments or failure to accept supervision. A Foster Grandparent may also be removed from stipended service for having income in excess of the eligibility level. A Foster Grandparent shall be removed immediately if ineligible to serve based on criminal history check results.

(b) The sponsor shall establish appropriate policies on removal from service, as well as procedures for appeal.

58. Revise §2552.61 to read as follows:

§2552.61 May a sponsor serve as a volunteer station?

Yes. A sponsor may serve as a volunteer station, if the activities are part of a work plan in the approved project application.

59. Amend §2552.62 as follows:

- a. Revise paragraphs (c) and (d).
- b. Add the word “and” to the end of paragraph (e)(1).
- c. Revise paragraph (e)(2).
- d. Remove paragraph (e)(3).
- e. Revise paragraphs (i) and (j).

The revisions read as follows:

§2552.62 What are the responsibilities of a volunteer station?

* * * * *

(c) Develop a written volunteer assignment plan for each Foster Grandparent that identifies their roles and activities, each child served, and expected outcomes.

(d) Keep a Letter of Agreement for each child who receives in-home service.

(e) * * *

(2) Resources required for performance of assignments, including reasonable accommodation, as needed, to enable Foster Grandparents with disabilities to perform the essential functions of their service; and

* * * * *

(i) Comply with all applicable civil rights laws and regulations, including providing Foster Grandparents with disabilities reasonable accommodation, to perform the essential functions of their service.

(j) Undertake such other responsibilities as may be necessary for the successful performance of Foster Grandparents in their assignments or as agreed to in the Memorandum of Understanding.

60. Revise § 2552.71(a) and (b) to read as follows:

§2552.71 What requirements govern the assignment of Foster Grandparents?

* * * * *

(a) Provide for Foster Grandparents to give direct services to one or more eligible children.

(b) Result in person-to-person supportive relationships with each child served. Foster Grandparent volunteers cannot be assigned to roles such as teacher's aides, group leaders or other similar positions that would detract from the person-to-person relationship.

* * * * *

61. Amend §2552.72 as follows:

a. Revise the section heading and paragraph (a)(5).

b. Remove and reserve paragraph (b).

§2552.72 Is a written volunteer assignment plan required for each Foster Grandparent?

(a) * * *

(5) Is used to review the impact of the assignment on the child(ren).

* * * * *

62. Revise the heading for subpart H to read as follows:

Subpart H-Children and Youth Served

63. Revise the heading for §2552.81 to read as follows:

§2552.81 Who is eligible to be served?

* * * * *

64. Revise §2552.82(a) introductory text to read as follows:

§2552.82 Under what circumstances may a Foster Grandparent continue to serve an individual beyond his or her 21st birthday?

(a) Only when a Foster Grandparent has been assigned to, and has developed a relationship with an individual with a disability, may that assignment continue beyond the individual's 21st birthday, provided that:

* * * * *

65. Revise §2552.91 to read as follows:

§2552.91 What is the process for application and award of a grant?

(a) How and when may an eligible organization apply for a grant? (1) An eligible organization may file an application in response to CNCS' published request, such as a Notice of Funding Opportunity or a Notice of Funding Availability. Applicants are not assured of selection or approval and may have to compete with other applicants.

(2) The applicant shall comply with the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs," (3 CFR, 1982 Comp., p. 197) in 45 CFR part 1233 and any other applicable requirements.

(b) Who reviews the merits of an application and how is a grant awarded? (1) CNCS reviews and determines the merit of an application by its responsiveness to published guidelines and to the overall purposes and objectives of the program. When funds are available, CNCS awards a grant in writing to each applicant whose grant proposal provides the best potential for serving the purpose of the program.

(2) The award will be documented by the Notice of Grant Award (NGA). CNCS and the sponsoring organization are the parties to the NGA. The NGA will document the sponsor's commitment to fulfill specific programmatic objectives and financial obligations. It will document the extent of CNCS' obligation to provide financial support to the sponsor.

(c) What happens if CNCS rejects an application? CNCS will return an application that is not approved for funding to the applicant with an explanation of CNCS' decision.

(d) For what period of time does CNCS award a grant? CNCS awards a Foster Grandparent grant for a specified period that is usually three years in duration.

66. Amend §2552.92 as follows;

- a. Revise paragraphs (a), (b) introductory text, (c), and (d).
- b. Remove paragraph (e).
- c. Redesignate paragraph (f) as (e) and revise newly redesignated paragraph (e).

The revisions read as follows:

§2552.92 What are project funding requirements?

(a) Is non-CNCS support required? A CNCS grant may be awarded to fund up to 90 percent of the cost of development and operation of a Foster Grandparent project. The sponsor is required to contribute at least 10 percent of the total project cost from non-Federal sources or authorized Federal sources.

(b) Under what circumstances does CNCS allow less than the 10 percent non-CNCS support? CNCS may allow exceptions to the 10 percent local support requirement in cases of demonstrated need such as:

* * * * *

(c) May CNCS restrict how a sponsor uses locally generated contributions in excess of the 10 percent non-CNCS support required? Whenever locally generated contributions to Foster Grandparent projects are in excess of the minimum 10 percent non-CNCS support required, CNCS may not restrict the manner in which such contributions are expended provided such expenditures are consistent with the provisions of the Act.

(d) Are program expenditures subject to audit? All expenditures by the grantee of Federal and non-Federal funds, including expenditures from excess locally generated

contributions in support of the grant are subject to audit by CNCS, its Inspector General, or their authorized agents.

(e) May a sponsor pay stipends at rates different than those established by CNCS?

No, a sponsor shall pay stipends at rates established by CNCS.

67. Amend §2552.93 as follows:

- a. Revise the section heading.
- b. Remove the word “and” from the end of paragraph (a)(3).
- c. Revise paragraph (a)(4).
- d. Add paragraph (a)(5).
- e. Revise paragraphs (b), (e), and (f).

The revisions and addition read as follows:

§2552.93 What are a sponsor's legal requirements in managing grants?

* * * * *

(a) * * *

(4) All applicable CNCS policies; and

(5) All other applicable CNCS requirements.

(b) Project support provided under a CNCS grant shall be furnished at the lowest possible cost consistent with the effective operation of the project.

* * * * *

(e) Payments to settle discrimination complaints, either through a settlement agreement or formal adjudication, are not allowable costs.

(f) Written CNCS approval is required for the following changes in the approved

grant:

(1) Reduction in budgeted volunteer service years.

(2) Change in the service area.

68. Revise §2552.101 to read as follows:

§2552.101 What rule governs the recruitment and enrollment of persons who do not meet the income eligibility guidelines to serve as Foster Grandparents?

Over-income persons as described in § 2552.43, age 55 or over, may be enrolled in FGP project as non-stipended volunteers.

69. Amend §2552.102 as follows:

a. Revise paragraphs (b) and (d).

b. Remove paragraphs (e) and (f).

c. Redesignate paragraph (g) as (e) and revise newly redesignated paragraph (e).

The revisions read as follows:

2552.102 What are the conditions of service of non-stipended Foster Grandparents?

* * * * *

(b) No special privilege or status is granted or created among Foster Grandparents, whether stipended or non-stipended, and equal treatment is required.

* * * * *

(d) All regulations and requirements applicable to the program apply to all Foster Grandparents.

(e) Non-stipended Foster Grandparents may contribute the costs they incur in connection with their participation in the program. An FGP project may not count such

contributions as part of the required non-CNCS support (match) for the grant.

70. Revise §2552.103 to read as follows:

§2552.103 Must a sponsor be required to enroll non-stipended Foster Grandparents?

No. Enrollment of non-stipended Foster Grandparents is not a condition for a sponsor to receive a new or continuation grant.

§2552.104 [Removed and Reserved]

71. Remove and reserve §2552.104.

72. Revise the heading for subpart K to read as follows:

Subpart K—Non-CNCS Funded Foster Grandparent Projects

73. Revise §2552.111 to read as follows:

§2552.111 Under what conditions may an agency or organization sponsor a Foster Grandparent project without CNCS funding?

An eligible agency or organization who wishes to sponsor a Foster Grandparent project without CNCS funding must make an application through the designated grants management system which is approved by CNCS and documented through the Notice of Grant Agreement (NGA).

74. Amend §2552.112 by revising the section heading, introductory text, and paragraph (a) to read as follows:

§2552.112 What are the resources and benefits to which a non-CNCS funded project is entitled?

The Notice of Grant Award entitles the sponsor of a Non-CNCS funded project

to:

(a) All technical assistance and materials provided to CNCS funded Foster Grandparent projects; and

* * * * *

75. Revise §2552.113 to read as follows:

§2552.113 What financial obligation does CNCS incur for non-CNCS funded projects?

Issuance of an NGA to a sponsor of a non-CNCS funded project does not create a financial obligation on the part of CNCS for any costs associated with the project.

76. Revise §2552.114 to read as follows:

§2552.114 What happens if a non-CNCS funded sponsor does not comply with the NGA?

A non-CNCS funded project sponsor's noncompliance with the NGA may result in suspension or termination CNCS' agreement and all benefits specified in §2552.112.

77. Revise §2552.121(c)(2), (g), and (h) to read as follows:

§2552.121 What legal limitations apply to the operation of the Foster Grandparent Program and to the expenditure of grant funds?

* * * * *

(c) * * *

(2) This section does not prohibit a sponsor from soliciting and accepting voluntary contributions from the community at large to meet its local support obligations under the

grant or from entering into agreements with parties other than beneficiaries to support additional volunteers beyond those supported by CNCS.

* * * * *

(g) *Religious activities.* (1) A Foster Grandparent or a member of the project staff funded by CNCS shall not give religious instruction, conduct worship services or engage in any form of proselytization as part of his/her duties.

(2) A sponsor or volunteer station may retain its independence and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs, provided that it does not use CNCS funds to support any inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part.

(h) *Nepotism.* Persons selected for project staff positions shall not be related by blood or marriage to other project staff, sponsor staff or officers, or members of the sponsor Board of Directors, unless there is written concurrence from the Advisory Council or community group established by the sponsor under subpart B of this part, and with notification to CNCS.

78. Revise §2552.122 to read as follows:

§2552.122 What legal coverage does CNCS make available to Foster Grandparents?

It is within CNCS' discretion to determine if Counsel is employed and counsel fees, court costs, bail and other expenses incidental to the defense of a FGP volunteer are

paid in a criminal, civil or administrative proceeding, when such a proceeding arises directly out of performance of the volunteer's activities. The circumstances under which CNCS may pay such expenses are specified in 45 CFR part 1220.

PART 2553 – THE RETIRED AND SENIOR VOLUNTEER PROGRAM

79. The authority citation for part 2553 continues to read as follows:

Authority: 42 U.S.C. 4950 *et seq.*

80. Amend § 2553.12 as follows:

- a. Remove paragraphs (e), (j), (k), (n), (q), and (r).
- b. Remove all alphabetical paragraph designations.
- c. Revise the definition of “Adequate staffing level”.
- d. Add the definition of “Assignment description” in alphabetical order.
- e. Revise the definition of “Chief Executive Officer”.
- f. Add the definition of “CNCS” in alphabetical order.
- g. Revise the definitions of “Cost reimbursements”, “Letter of Agreement”, and “National Senior Service Corps (NSSC)”.
- h. Add the definitions of “Non-CNCS support (excess)” and “Non-CNCS support (match)” in alphabetical order.
- i. Revise the definitions of “Performance measures” and “Project”.
- j. Add the definition of “Proprietary Health Care Organization” in alphabetical order.
- k. Revise the definitions of “Sponsor” and “Service area”.
- l. Add the definition of “United States and Territories” in alphabetical order.

m. Revise the definition of “Volunteer station”.

The revisions and additions read as follows:

§ 2553.12 Definitions.

* * * * *

Adequate staffing level. The number of project staff or full time equivalent needed by a sponsor to manage the National Senior Service Corps (NSSC) project operations considering such factors as: number of budgeted volunteers, number of volunteer stations, and the size of the service area.

* * * * *

Assignment description. The written description of the activities, functions or responsibilities to be performed by RSVP volunteers.

Chief Executive Officer. The Chief Executive Officer of CNCS appointed under the National and Community Service Act of 1990, as amended, (NCSA), 42 U.S.C. 12501 *et seq.*

CNCS. The Corporation for National and Community Service established under the NCSA.

Cost reimbursements. Reimbursements budgeted as Volunteer Expenses and provided to volunteers, including stipends to cover incidental costs, transportation, meals, recognition, supplemental accident, personal liability and excess automobile liability insurance, and other expenses as negotiated in the Memorandum of Understanding.

Letter of Agreement. A written agreement between a volunteer station or sponsor, and person(s) served or the person legally responsible for that person. It authorizes the

assignment of an RSVP volunteer in the home of a client, defines RSVP volunteer activities, and specifies supervision arrangements.

* * * * *

National Senior Service Corps (NSSC). The collective name for the Senior Companion Program (SCP), Foster Grandparent Program (FGP), and the Retired and Senior Volunteer Program (RSVP), and Demonstration Programs, all of which are established under Parts A, B, C, and E, Title II of the Act. NSSC is also referred to as the “Senior Corps.”

Non-CNCS support (excess). The amount of non-CNCS cash and in-kind contributions generated by a sponsor in excess of the required percentage.

Non-CNCS support (match). The percentage share of non-CNCS cash and in-kind contributions required to be raised by the sponsor in support of the grant.

Performance measures. Indicators intended to that help determine the impact of an RSVP project on the community, including the volunteers.

Project. The locally planned RSVP activity or set of activities in a service area as approved by CNCS and implemented by the sponsor.

Proprietary Health Care Organizations. Private, for-profit health care organization that serves one or more vulnerable populations.

Service area. The geographically defined area(s) approved in the grant application, in which RSVP volunteers are enrolled and placed on assignments.

Sponsor. A public agency, including Indian tribes as defined in section 421(5) of the Act, and private, non-profit organizations, both secular and faith-based, in the United

States that have authority to accept and the capability to administer an RSVP project.

United States and Territories. Each of the several States, the District of Columbia, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, Guam and American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands.

Volunteer station. A public agency; a private, non-profit organization, secular or faith-based; or a proprietary health care organization. A volunteer station must accept responsibility for the assignment and supervision of RSVP volunteers in health, education, social service or related settings such as multi-purpose centers, home health care agencies, or similar establishments. Each volunteer station must be licensed or otherwise certified, when required, by the appropriate state or local government. Private homes are not volunteer stations.

81. Revise § 2553.21 to read as follows:

§ 2553.21 Who is eligible to serve as a sponsor?

CNCS awards grants to public agencies, including Indian tribes as defined in section 421(5) of the Act, and private, non-profit organizations, both secular and faith-based, in the United States that have authority to accept and the capability to administer an RSVP project.

82. Revise § 2553.22 to read as follows:

§ 2553.22 What are the responsibilities of a sponsor?

A sponsor is responsible for fulfilling all project management requirements necessary to accomplish the purposes of the RSVP project as specified in the Act. A

sponsor shall not delegate or contract these overall management responsibilities to another entity. CNCS retains the right to determine what types of management responsibilities may or may not be contracted.

83. Amend § 2553.23 as follows:

- a. Revise the section heading, paragraph (b), and paragraph (c) introductory text.
- b. Remove the word “and” from the end of paragraph (c)(2)(iii).
- c. Revise paragraph (c)(2)(iv).
- d. Add paragraph (c)(2)(v).
- e. Remove paragraph (c)(3).
- f. Revise paragraph (e).
- g. Remove paragraphs (f), (g), and (i).
- h. Redesignate paragraphs (h) and (j) as (f) and (g), respectively, and revise newly redesignated paragraph (g).

The revisions and addition read as follows:

§ 2553.23 What are a sponsor's project responsibilities?

* * * * *

(b) In collaboration with other community organizations or by using existing assessments, assess the needs of the community or service area, and develop strategies to respond to identified needs using RSVP volunteers.

(c) Develop and manage one or more volunteer stations to provide a wide range of placement opportunities that appeal to persons age 55 and over by:

* * * * *

(2) * * *

(iv) That states the station will not discriminate against RSVP volunteers, service beneficiaries, or in the operation of its program on the basis of race, color, national origin including individuals with limited English proficiency, gender, age, religion, sexual orientation, disability, gender identity or expression, political affiliation, marital or parental status, or military service; and

(v) That states the station will provide for the safety of the RSVP volunteers assigned to the station.

* * * * *

(e) Encourage the most efficient and effective use of RSVP volunteers by coordinating project services and activities with related national, state and local programs, including other CNCS programs.

* * * * *

(g) Make every effort to meet such performance measures as established in the approved grant application.

84. Revise § 2553.24(a)(2) through (4) to read as follows:

§ 2553.24 What are a sponsor's responsibilities for securing community participation?

(a) * * *

(2) With an interest in the field of community service and volunteerism;

(3) Capable of helping the sponsor satisfy its administrative and program responsibilities including fund-raising, publicity and meeting or exceeding performance

measures;

(4) With an interest in, and knowledge of, the range of abilities of older adults;

and

* * * * *

85. Amend §2553.25 as follows:

a. Revise paragraph (c).

b. Revise paragraphs (e) through (i).

The revisions read as follows:

§ 2553.25 What are a sponsor's administrative responsibilities?

* * * * *

(c) Employ a full-time project director to accomplish project objectives and manage the functions and activities delegate to project staff for Senior Corps project(s) within its control. The project director may participate in activities to coordinate project resources with those of related local agencies, boards or organizations. A full-time project director shall not serve concurrently in another capacity, paid or unpaid, during established working hours. A sponsor may negotiate the employment of a part-time project director with CNCS when the sponsor can demonstrate that such an arrangement will not adversely affect the size, scope or quality of project operations.

* * * * *

(e) Compensate project staff at a level that is comparable to similar staff positions in the sponsor organization and/or project service area, as is practicable.

(f) Establish risk management policies and procedures covering RSVP project activities. This includes provision of appropriate insurance coverage for RSVP volunteers, which includes; accident insurance, personal liability insurance, and excess automobile liability insurance.

(g) Establish record keeping and reporting systems in compliance with CNCS requirements that ensure quality of program and fiscal operations, facilitate timely and accurate submission of required reports and cooperate with CNCS evaluation and data collection efforts.

(h) Comply with, and ensure that all volunteer stations comply with, all applicable civil rights laws and regulations, including non-discrimination based on disability.

(i) Conduct National Service Criminal History Checks in accordance with the requirements in 45 CFR 2540.200 through 2540.207.

§2553.26 [Removed and Reserved]

86. Remove and reserve §2553.26.

87. Revise §2553.31(a)(3), (b), and (c) to read as follows;

§2553.31 What are the rules on suspension, termination and denial of refunding of grants?

(a) * * *

(3) In any case where an application for refunding is denied for failure to comply with the terms and conditions of the grant, the recipient shall be afforded an opportunity for an informal hearing before an impartial hearing officer, who has been agreed to by the recipient and CNCS; and

* * * * *

(b) Hearings or other meetings as may be necessary to fulfill the requirements of this section should, to the extent practicable, be held in locations convenient to the grant recipient.

(c) The procedures for suspension, termination, and denial of refunding, that apply to the RSVP program are specified in 45 CFR part 1206.

88. Amend §2553.41 as follows:

- a. Revise the section heading.
- b. Add the word “and” at the end of paragraph (a)(2).
- c. Remove the semicolon at the end of paragraph (a)(3) and add a period in its place.
- d. Remove paragraph (a)(4).
- e. Revise paragraph (b).

The revisions read as follows:

§2553.41 Who is eligible to be an RSVP volunteer?

* * * * *

(b) Eligibility to serve as an RSVP volunteer shall not be restricted on the basis of formal education, experience, race, color, national origin including limited English proficiency, gender, age, religion, sexual orientation, disability, gender identity or expression, political affiliation, marital or parental status, or military service.

89. Revise §2553.42 to read as follows:

§2553.42 Is an RSVP volunteer a federal employee, an employee of the sponsor or of the volunteer station?

RSVP volunteers are not employees of the sponsor, the volunteer station, CNCS or the Federal Government.

90. Revise §2553.43 to read as follows:

§2553.43 What cost reimbursements and benefits may sponsors provide to RSVP volunteers?

(a) RSVP volunteers may be provided the following cost reimbursements within the limits of the project's available resources:

(1) *Transportation*. RSVP volunteers may receive assistance with the cost of transportation to and from volunteer assignments and official project activities, including orientation, training, and recognition events.

(2) *Meals*. RSVP volunteers may receive assistance with the cost of meals taken while on assignment.

(3) *Other volunteer expenses*. RSVP volunteers may also be reimbursed for allowable out-of-pocket expenses incurred while performing their assignments.

(b) RSVP volunteers must be provided the following cost reimbursements:

(1) *Recognition*. RSVP volunteers shall be provided recognition for their service.

(2) *Insurance*. An RSVP volunteer is provided with the CNCS-specified minimum levels of insurance as follows:

(i) *Accident insurance*. Accident insurance covers RSVP volunteers for personal injury during travel between their homes and places of assignment, during volunteer

service, during meal periods while serving as a volunteer, and while attending project sponsored activities. Protection shall be provided against claims in excess of any benefits or services for medical care or treatment available to the volunteer from other sources.

(ii) *Personal liability insurance.* Protection is provided against claims in excess of protection provided by other insurance. It does not include professional liability coverage.

(iii) *Excess automobile insurance.* (A) RSVP drivers who drive in connection with their service shall be provided protection against claims in excess of the greater of either:

(1) Liability insurance the volunteers carry on their own automobiles; or

(2) The limits of applicable state financial responsibility law, or in its absence, levels of protection to be determined by CNCS for each person, each accident, and for property damage.

(B) RSVP volunteers who drive their personal vehicles to or on assignments or project-related activities shall maintain personal automobile liability insurance equal to or exceeding the levels established by CNCS.

91. Revise §2553.44 to read as follows:

§2553.44 May cost reimbursements received by RSVP volunteers be subject to any tax or charge, treated as wages or compensation, or affect eligibility to receive assistance from other programs?

No. An RSVP volunteer's cost reimbursements are not subject to any tax or charge, and are not treated as wages or compensation for the purposes of unemployment

insurance, workers' compensation, temporary disability, retirement, public assistance or similar benefit payments or minimum wage laws. Cost reimbursements are not subject to garnishment, and do not reduce or eliminate the level of, or eligibility for, assistance or services that a volunteer may be receiving under any governmental program.

92. Revise §2553.51 to read as follows:

§2553.51 What are the terms of service of an RSVP volunteer?

An RSVP volunteer shall serve on a regular basis, or intensively on short-term assignments, consistent with the assignment description.

93. Revise §2553.52 to read as follows:

§2553.52 Under what circumstances may a sponsor remove an RSVP volunteer from service?

(a) A sponsor may remove an RSVP volunteer from service for cause. Grounds for removal include, but are not limited to: extensive and unauthorized absences; misconduct; failure to perform assignments and or failure to accept supervision.

(b) The sponsor shall establish appropriate policies on removal from service as well as procedures for appeal.

94. Revise §2553.61 to read as follows:

§2553.61 When may a sponsor serve as a volunteer station?

The sponsor and RSVP project itself may function as a volunteer station or may initiate special volunteer activities provided that CNCS agrees these activities are in accord with program objectives and will not hinder overall project operations.

95. Amend §2553.62 as follows:

- a. Revise paragraphs (b), (c), (e), and (f)(2) and (3).
- b. Remove paragraphs (f)(4) and (5).

The revisions read as follows:

§2553.62 What are the responsibilities of a volunteer station?

* * * * *

(b) Assign staff member responsible for day to day oversight of RSVP volunteers within the volunteer station and for assessing the impact of volunteers in addressing community needs;

(c) Keep a Letter of Agreement for each client who receives in-home service;

* * * * *

(e) Comply with all applicable civil rights requirements including providing RSVP volunteers with disabilities reasonable accommodation to perform the essential functions of their service;

(f) * * *

(2) Resources required for performance of assignments including reasonable accommodation to RSVP volunteers with disabilities to perform the essential functions of their service; and

(3) Supervision.

* * * * *

96. Amend §2553.71 as follows:

- a. Revise the introductory text and paragraphs (a)(1), (b)(1), (b)(2)(iv), (c)(2), (d), and (e).

b. Remove paragraph (f).

The revisions read as follows:

§2553.71 What is the process for application and award of a grant?

As funds become available, CNCS solicits application for RSVP grants from eligible organizations through a competitive process.

(a) * * *

(1) Submit required information determined by CNCS.

* * * * *

(b) What process does CNCS use to select new RSVP grantees? (1) CNCS reviews and determines the merits of an application by its responsiveness to published guidelines and to the overall purpose and objectives of the program. In conducting its review during the competitive process, CNCS considers the input and opinions of those serving on a peer review panel, including members with expertise in senior service and aging, and may conduct site inspections, as appropriate.

(2) * * *

(iv) Ensuring innovation and geographic, demographic, and programmatic diversity across CNCS RSVP grantee portfolio; and

* * * * *

(c) * * *

(2) CNCS and the sponsoring organization are parties to the NGA. The NGA will document the sponsor's commitment to fulfill specific programmatic objectives and financial obligations. It will document the extent of CNCS' obligation to provide

assistance to the sponsor.

(d) What happens if CNCS rejects an application? CNCS will inform an applicant when an application is not approved for funding.

(e) For what period of time does CNCS award a grant? CNCS awards an RSVP grant for a specified period that is usually three years in duration with an option for a grant renewal of three years, if the grantee's performance and compliance with grant terms and conditions are satisfactory. CNCS will terminate funding to a grantee when CNCS determines that the grant should not be renewed for an additional three year period.

97. Revise §2553.72(a), (b) introductory text, (c), and (d) to read as follows:

§2553.72 What are project funding requirements?

(a) Is non-CNCS support required? (1) A CNCS grant may be awarded to fund up to 90 percent of the total project cost in the first year, 80 percent in the second year, and 70 percent in the third and succeeding years.

(2) A sponsor is responsible for identifying non-CNCS funds which may include in-kind contributions.

(b) Under what circumstances does CNCS allow less than the percentage identified in paragraph (a) of this section? CNCS may allow exceptions to the local support requirement identified in paragraph (a) of this section in cases of demonstrated need such as:

* * * * *

(c) May CNCS restrict how a sponsor uses locally generated contributions in

excess of the non-CNCS support required? Whenever locally generated contributions to RSVP projects are in excess of the non-CNCS funds required (10 percent of the total cost in the first year, 20 percent in the second year and 30 percent in the third and succeeding years), CNCS may not restrict the manner in which such contributions are expended provided such expenditures are consistent with the provisions of the Act.

(d) Are program expenditures subject to audit? All expenditures by the grantee of Federal and Non-Federal funds, including expenditures from excess locally generated contributions, are subject to audit by CNCS, its Inspector General or their authorized agents.

98. Amend §2553.73 as follows:

- a. Revise the section heading.
- b. Remove the word “and” from the end of paragraph (a)(3).
- c. Revise paragraph (a)(4).
- d. Add paragraph (a)(5).
- e. Revise paragraphs (b), (e), and (f).

The revisions and addition read as follows:

§2553.73 What are a sponsor's legal requirements in managing grants?

* * * * *

(a) * * *

(4) All applicable CNCS policies; and

(5) All other applicable CNCS requirements.

(b) Project support provided under a CNCS grant shall be furnished at the lowest

possible cost consistent with the effective operation of the project.

* * * * *

(e) Payments to settle discrimination complaints, either through a settlement agreement or formal adjudication, are not allowable costs.

(f) Written CNCS approval/concurrence is required for a change in the approved service area.

99. Revise the heading for subpart H to read as follows:

Subpart H—Non-CNCS Funded Projects

100. Revise §2553.81 to read as follows:

§2553.81 Under what conditions may an agency or organization sponsor an RSVP project without CNCS funding?

An eligible agency or organization who wishes to sponsor an RSVP project without CNCS funding must make an application through the designated grants management system which is approved by CNCS and documented through the Notice of Grant Agreement (NGA).

101. Amend §2553.82 by revising the section heading and paragraph (a) to read as follows:

§2553.82 What are the resources and benefits to which a non-CNCS funded project is entitled?

(a) All technical assistance and materials provided to CNCS funded RSVP volunteer projects; and

* * * * *

102. Revise §2553.83 to read as follows:

§2553.83 What financial obligation does CNCS incur for non-CNCS funded projects?

Issuance of an NGA to a sponsor of a non-CNCS funded project does not create a financial obligation on the part of CNCS for any costs associated with the project.

103. Revise §2553.84 to read as follows:

§2553.84 What happens if a non-CNCS funded sponsor does not comply with the NGA?

A non-CNCS funded project sponsor's noncompliance with the NGA may result in suspension or termination CNCS' agreement and all benefits specified in §2553.82.

104. In §2553.91, revise the section heading and paragraphs (c)(2), (g), and (h) to read as follows:

§2553.91 What legal limitations apply to the operation of the RSVP volunteer Program and to the expenditure of grant funds?

* * * * *

(c) * * *

(2) This section does not prohibit a sponsor from soliciting and accepting voluntary contributions from the community at large to meet its local support obligations under the grant or from entering into agreements with parties other than beneficiaries to support additional volunteers beyond those supported by CNCS.

* * * * *

(g) *Religious activities.* (1) An RSVP volunteer or a member of the project staff

funded by CNCS shall not give religious instruction, conduct worship services, or engage in any form of proselytization as part of his/her duties.

(2) A sponsor or volunteer station may retain its independence and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs, provided that it does not use CNCS funds to support any inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part.

(h) *Nepotism*. Persons selected for project staff positions shall not be related by blood or marriage to other project staff, sponsor staff or officers, or members of the sponsor Board of Directors, unless there is written concurrence from the Advisory Council or community group established by the sponsor under subpart B of this part, and with notification to CNCS.

105. Revise §2553.92 to read as follows:

§2553.92 What legal coverage does CNCS make available to RSVP volunteers?

It is within CNCS' discretion to determine if Counsel is employed and counsel fees, court costs, bail and other expenses incidental to the defense of an RSVP volunteer are paid in a criminal, civil or administrative proceeding, when such a proceeding arises directly out of performance of the volunteer's activities. The circumstances under which CNCS may pay such expenses are specified in 45 CFR part 1220.

§2553.100 [Removed]

106. Remove §2553.100.

107. Revise §2553.101 to read as follows:

§2553.101 What is the purpose of performance measurement?

The purpose of performance measurement is to strengthen the RSVP project and foster continuous improvement. Performance measures are used to assess how an applicant for a grant approaches the design of volunteer activities and how those activities impact community needs.

108. Revise §2553.102 to read as follows:

§2553.102 What performance measurement information must be part of an application for funding under RSVP?

An application to CNCS for funding under RSVP must contain:

(a) In a year one renewal application:

(1) Performance measures.

(2) Estimated performance data for the project years covered by the application.

(b) In a year two or three continuation application:

(1) Performance measures.

(2) Estimated performance data for the project years covered by the application.

(3) Actual performance data, where available, for the preceding completed project year.

109. Revise §2553.103 to read as follows:

§2553.103 Who develops the performance measures?

(a) CNCS may establish performance measures that will apply to RSVP projects, which sponsors will be responsible for meeting.

(b) An applicant is responsible for choosing its own project specific performance measures.

110. Revise §2553.104 to read as follows:

§2553.104 What performance measures must be submitted to CNCS and how are these submitted?

(a) An applicant for CNCS funds is required to submit any uniform performance measure CNCS may establish for all applicants. Requirements, including types of performance measures, will be communicated in the notice of funding and other related materials.

(b) CNCS may specify additional requirements related to performance measures on an annual basis in program guidance and related materials.

(c) Applicants for CNCS funds will submit performance measures through the grant application. CNCS will provide standard forms.

111. Revise §2553.105 to read as follows:

§2553.105 How are performance measures approved and documented?

(a) CNCS reviews and approves performance measures for all applicants that apply for funding.

(b) An applicant must follow CNCS provided guidance and formats when submitting performance measures.

(c) Final performance measures, as negotiated between the applicant and CNCS, will be documented in the approved grant application.

112. Revise §2553.106 to read as follows:

§2553.106 How does a sponsor report performance measures to CNCS?

CNCS will set specific reporting requirements, including frequency and deadlines, concerning performance measures established in the grant award. A sponsor is required to report on the actual results that occurred when implementing the grant and to regularly measure the project's performance.

113. Amend §2553.107 by revising the introductory text to read as follows:

§2553.107 What must a sponsor do if it cannot meet its performance measures?

When a sponsor finds it is not on track to meet its performance measures, the sponsor must develop a plan to get back on track or submit a request to CNCS to amend its performance measures. CNCS may limit when amendments to performance measure can be submitted, as well as limit the types of changes a sponsor can make to performance measures. The request must include all of the following:

* * * * *

§2553.108 [Removed]

114. Remove §2553.108.

§2553.109 [Redesignated as §2553.108 and Amended]

115. Redesignate §2553.109 as §2553.108 and revise newly redesignated §2553.108 to read as follows:

§2553.108 What happens if a sponsor fails to meet the target performance measures included in the approved grant application?

If a sponsor fails to meet a target performance measure established in the approved grant application, CNCS may take one or more of the following actions:

(a) Reduce the amount, suspend, or deny refunding of the grant, in accordance with the provisions of §2553.31;

(b) Terminate the grant, in accordance with 45 CFR part 1206.

Dated: December 4, 2018.

Tim Noelker,
General Counsel.

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